Special Report

2023 Payroll Year-End

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Bloomberg Tax

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Introduction

Year-end for payroll professionals generally starts when the next year's inflation-adjusted or indexed numbers are released in mid-October and ends after most reports and forms for the prior year are completed and filed in February. This time frame of fewer than five months encompasses two broad activities: successfully closing out the old year and establishing a strong start to the payroll process in the new year. 2023 has normalized somewhat now that many companies have settled into their hybrid or remote work arrangements and have determined their corresponding payroll filing obligations.

The steps and considerations involved in accomplishing the myriad tasks and activities inherent in a successful year-end are the focus of this special report, 2023 Payroll Year-End. This report has been prepared jointly by employment tax and benefit professionals at KPMG LLP and payroll editors at Bloomberg Tax & Accounting.

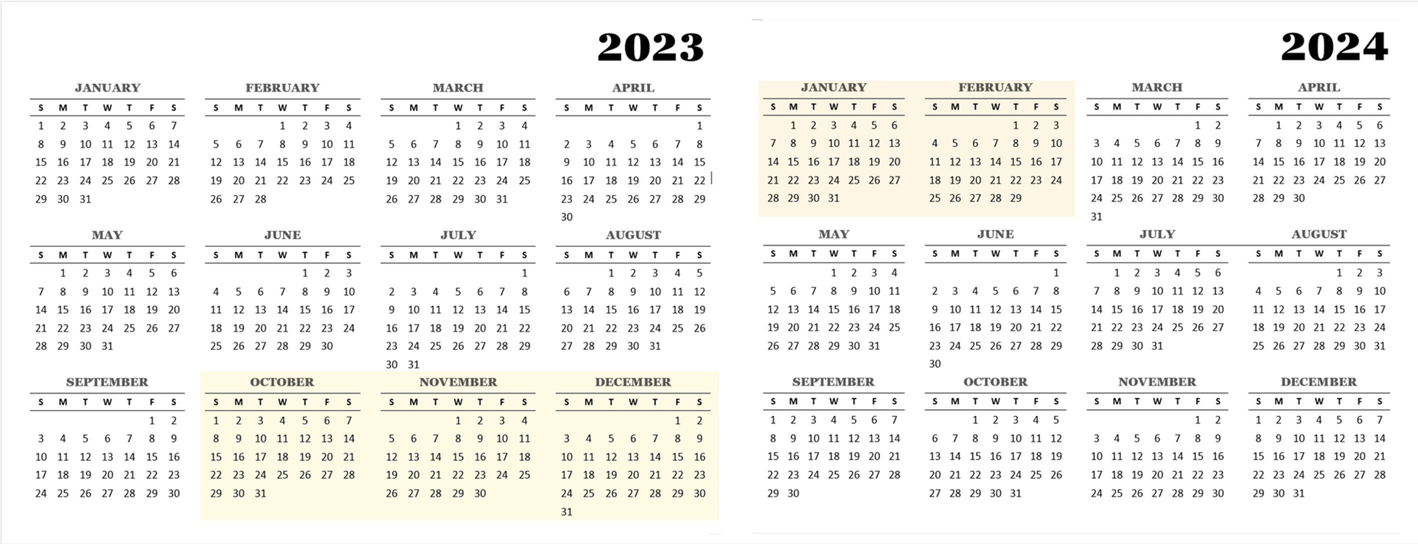
This report covers a wide array of topics, including sections covering policy issues, remote workers, tax requirements related to 2023 and prior-year legislation, and common concerns at year-end that have been identified as historically problematic for employers. The writers have also highlighted frequent problems in correctly reporting items on Form W-2, *Wage and Tax Statement*, inclusive of the reporting treatment of such items as deferred compensation, health savings account contributions, multistate wage allocation, and accounting for fringe benefits, gifts, prizes, and awards.

A list of key 2023 federal and state wage base limits, state unemployment taxable wage bases, and health savings account limits are included in a special By the Numbers section. The report also accompanies an interactive, two-page 2023 Year-End Checklist that payroll teams can share to track issues within their organization.

Payroll professionals know that starting the year-end process in October can bring unneeded pressure to the collecting of information that is needed to reconcile the current year's payroll and prepare for the new year. Instead, starting the next year-end planning process in February allows a payroll team to close out the year-end process on a high note.

Year-End Policy Issues

Payroll professionals do not need surprises at year-end. The 2023 year-end and the outlook for 2024 could be interesting, given the proposed legislation that is before Congress. Keeping abreast of potential legislation while ensuring that reporting obligations for the current year requirements are met will keep payroll professionals busy during the 2023 year-end. Consider and investigate the items in this report to identify potential issues and hopefully mitigate, or at least minimize, any year-end surprises.



Covid-19 Relief Provisions: At a Glance

Legislation enacted in response to the coronavirus (Covid-19) pandemic in 2020 and 2021 brought new temporary relief provisions for employers and employees as well as changes to how compensation and benefits programs operate. Many of these changes significantly affected the payroll process, including updates to reporting, withholding, and deposit guidelines that have flowed into 2022. Although many of these provisions were enacted or became effective in 2020 and early in 2021,[1] many employers continue to file amended returns (Forms 941-X) to claim the Employee Retention Credit or to potentially perfect the claims previously submitted.

Payroll Tax Deferrals

Under the **Coronavirus Aid, Relief, and Economic Security Act**, employers and self-employed individuals could defer the deposit of the employer's share of Social Security taxes (or equivalent amount for self-employed individuals) incurred from March 27, 2020, through Dec. 31, 2020. The extended deadline for the deposit or payment of the deferred taxes was:

- **Dec. 31, 2021**, with respect to 50% of the deferred amount (that should already have been paid back).
- **Dec. 31, 2022**, with respect to the remaining deferred amount. Dec. 31 was a Saturday, so the payments were due on the next regular business day, **Jan. 3, 2023**.

Companies that have repaid their deferral might want to consider obtaining transcripts from the IRS of their Form 941 filings and deposits to ensure that the deferral repayments were correctly recorded.

Employee Retention Credit

As originally enacted by the CARES Act, the Employee Retention Credit provided a refundable payroll credit for eligible employers whose business had been affected by the COVID-19 pandemic for qualified wages paid after March 12, 2020, and before Jan. 1, 2021.

Subsequent legislation ultimately extended and expanded the ERC through December 31, 2021.

However, the Infrastructure Investment and Jobs Act (enacted Nov. 15, 2021) amended the law so that the ERC applies only to wages paid before Oct. 1, 2021, unless the employer is a "recovery startup business."

For 2020 ERCs, employers have until April 15, 2024, to file amended employment tax returns to claim the credit. For 2021 ERCs, employers have until April 15, 2025, to file amended employment tax returns to claim the credit.

Reporting Employee Retention and Paid-Leave Tax Credits

A high-level summary of the employee retention credit (ERC) and paid-leave tax credits under the FFCRA:

- Employers that are eligible for the ERC and paid-leave tax credits under the FFCRA can claim those credits on a quarterly basis by reporting the credits on Form 941-X, *Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund*.
- The claims for refund must be submitted via Form 941-X for the quarter in which the employee performed the services and wages were paid. The credits can be obtained by requesting a refund on Form 941-X or by submitting a request for the credit carry-forward to apply against any other outstanding liability.
- If a third-party payroll vendor is used for tax filing purposes, they may dictate whether they will process a credit or claim a refund check based upon the requirements of their software and filing systems.

An employer that claimed the credit for qualified sick and family leave wages for leave taken after March 31, 2020, and before April 1, 2021, and that makes any corrections on Form 941-X to amounts used to figure this credit, will need to refigure the amount of this credit using Worksheet 1. The employer will also use this worksheet to figure this credit if claiming it for the first time on Form 941-X.

An employer that claimed the credit for qualified sick and family leave wages for leave taken after March 31, 2021, and before Oct. 1, 2021, that makes any corrections on Form 941-X to amounts used to figure this credit, will need to refigure the amount of this credit using Worksheet 3. The employer will also use this worksheet to figure this credit if claiming it for the first time on Form 941-X.

[1] Many of these provisions were enacted in March 2020 as part of the Families First Coronavirus Response Act (FFCRA) (Pub. L. 116-127) and the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136). In addition, on March 13, 2020, the Covid-19 pandemic was declared a disaster by the federal government, triggering other existing relief provisions.

An employer that claimed the employee retention credit for wages paid after March 12, 2020, and before July 1, 2021, that makes any corrections on Form 941-X to amounts used to figure this credit, will need to refigure the amount of this credit using Worksheet 2. The employer will also use this worksheet to figure this credit if claiming it for the first time on Form 941-X.

Employers that claimed the employee retention credit for wages paid after June 30, 2021, and before Jan. 1, 2022, and makes any corrections on Form 941-X to amounts used to figure this credit, will need to refigure the amount of this credit using Worksheet 4. The employer will also use this worksheet to figure this credit if claiming it for the first time on Form 941-X.

An employer that claimed the COBRA premium assistance credit and makes any corrections on Form 941-X to amounts used to figure this credit will need to refigure the amount of this credit using Worksheet 5. The employer will also use this worksheet to figure this credit if claiming it for the first time on Form 941-X.

IRS Guidance on Previously Provided Claims

The Internal Revenue Service (IRS) has announced a new withdrawal process to help small businesses and organizations that filed an ERC claim, have not yet received the credit, and may be concerned about its accuracy. This new withdrawal option allows certain employers to withdraw their claim and avoid future repayment, interest, and penalties.

Claims that are withdrawn will be treated as if they were never filed, and the IRS will not impose penalties or interest. However, those who willfully filed a fraudulent claim or assisted or conspired in such conduct should be aware that withdrawing a fraudulent claim will not exempt them from potential criminal investigation and prosecution.

The IRS has received approximately 3.6 million ERC claims over the course of the program. It has hundreds of criminal cases under review with thousands of ERC claims referred for audit. In September, the IRS announced an immediate moratorium on processing new ERC claims until at least the end of this year due to a flood of ineligible ERC claims.

Payment of approved claims submitted before Sept. 14, 2023, will continue during the moratorium period but at a slower pace due to more detailed compliance reviews. Existing ERC claims will go from a standard processing goal of 90 days to 180 days, and much longer if the claim faces further review or audit. The IRS may also seek additional documentation from taxpayers to ensure the claims are legitimate. The IRS warns taxpayers to use extreme caution before applying for the ERC and is working on guidance to help employers that were misled into claiming the ERC and have already received their refund.

Section 139 Qualified Disaster Relief Payments

Under IRC Section 139, employers may provide payments or reimbursements to an employee for reasonable and necessary personal, family, living, or funeral expenses incurred as a result of a qualified disaster. These payments may generally be excluded from employee income and remain deductible by the employer, provided they do not represent payment of lost wages and are not otherwise reimbursed by insurance.

Although there are no specific substantiation requirements, it is generally advisable to consider a written plan documenting terms and conditions intended to qualify as Section 139 payments to support that treatment and clarifying that the amounts do not represent wage replacement.

During 2023, several federally declared disasters occurred that might qualify for Section 139 Qualified Disaster Relief payments.

Other Relief

Additional sources of relief affecting benefits provided to employees may be available under recent legislation or due to a federally declared disaster, such as:

- Leave donation and leave-sharing programs.
- Student loan repayment assistance.
- Unemployment insurance extensions and benefit increases.

Work Anywhere: Our New Way of Working

The Covid-19 pandemic created a seismic shift in the structure of the workplace. Many workplaces continue to have a hybrid or fully remote workforce in response to state required orders as well as a shift in the workforce requirements and requests. Employers have spent the past few years trying to determine where employees are working in this new remote environment and how to move forward in this new normal. Hybrid and remote work situations have led to a myriad of payroll reporting and taxation issues as well as other tax implications.

An employee may now be subject to state income tax withholding in their new work location, and that worksite may be one where the company previously had no presence. In 2020, some states issued guidance acknowledging the employees that had entered their jurisdictions, stating that income tax withholding is not required while the employee is sheltering temporarily at the location. This guidance expired in 2021, and states are returning to pre-pandemic wage sourcing and withholding tax rules.

The general rule of thumb, established before the pandemic, is that state income tax withholding should be performed based upon the employee's work location. Many states have set thresholds for withholding purposes, dictating that once an employee has passed that threshold, withholding should be performed. For example, New York has a 14-day rule, while California expects state withholding on the first day. An employer should look to the state's rules for state income tax withholding as well as unemployment insurance based upon whether their employee is performing services as a temporary employee in the state, as a traveling employee into the state, as a telecommuter, or as a permanent employee in that jurisdiction.

"Convenience of the Employer" Rule

Under the "convenience of the employer" rule applied in Connecticut, Delaware, Nebraska, New York, and Pennsylvania, if employees work from home through the employer's necessity, the employee will be taxed in the employee's telecommuting location. If, however, the employee telecommutes for their own convenience, the employee's wages for those workdays will be classified as if the employee was working from the employer's physical office.

New Jersey enacted its own legislation in 2023 to combat New York's "convenience of the employer" rule.

The new rule applies to employees who work in other states that also impose convenience of the employer rules.

New Jersey's Division of Taxation published guidance on its website pertaining to the implementation of the rule and its application to employees in other states that impose similar rules. Based on the initial guidance and as discussed below, the new rule should not apply to residents of Connecticut or Pennsylvania.

Alabama is a state imposing a rule similar to the convenience rule. Starting in 2023, employees working for Alabama employers who work remotely in a state that does not impose an income tax are subject to Alabama state income taxes.

The New Jersey Division of Taxation guidance provides specifically that "under the convenience rule, a nonresident taxpayer's employee compensation from a New Jersey employer for the performance of personal services is sourced to the employer's location (New Jersey) if the employee is working remotely from an out-of-state location (e.g., at home in their resident state) for the employee's own convenience rather than for the necessity of their employer."

Although Pennsylvania has a "convenience of the employer" rule in place, the New Jersey rule should not be applicable to Pennsylvania residents because of the reciprocal agreement in place between the two states. The reciprocity remains in place as long as the employee has claimed reciprocity by completing the New Jersey Form NJ-165, Employee's Certificate of Nonresidence in New Jersey. In addition, the Division of Taxation provides that the convenience rule should not apply to Connecticut residents working in New Jersey. However, this is subject to change as the state intends to coordinate with the Connecticut Department of Revenue Services and issue further guidance.

The New Jersey convenience of the employer is retroactive to Jan. 1, 2023. The Division of Taxation recommends that affected employers begin withholding and/or encourage employees to make estimated payments for tax year 2023 as soon as possible. Employers should "consider" adjusting withholdings as an accommodation to employees so that they are not underpaid upon filing their New Jersey nonresident personal income tax return for 2023. The Division of Taxation "will not impose penalties and interest, as long as the taxpayer begins complying with the new law as of September 15, 2023."

Based upon the above, employers should not be required to retroactively adjust employee withholdings to satisfy the New Jersey convenience of the employer rule. Instead, employers should be compliant with the new convenience of the employer rule by Sept. 15, 2023, to avoid any penalties for underwithholding New Jersey state income tax.

Employee Work-From-Home Expenses

As employees adjusted to their new remote work locations, they also started incurring expenses for new office setups. They may not have left their original state, but they now were working from home and needed computer monitors, printers, office supplies, internet connections, and other items necessary to function from a remote office. Some employers have offered employees an allowance or reimbursement to cover certain work-from-home expenses or provided additional equipment that can be used at the remote site. Whether these allowances, reimbursements, or the value of provided equipment should be included in employee income—and in what amount—generally depends on the facts and circumstances.

Additionally, other expenses that employers and employees often incur while operating in a business-as-usual mode may look different in the new post-pandemic work environment. For employees working from home, there likely are fewer group lunch meetings or recreational team activities. If an employer still would like to cover the cost of some meals for virtual meetings or happy hours, would that still be excludable from income?

Employees who are traveling to the office may have additional expenses if they are relying more heavily on car-ride services or driving personal vehicles and parking to avoid public transportation. If an employer assists with the added expenses, can any portion be provided tax-free?

With the changes to the facts and circumstances around many expenses and benefits, employers have had to reconsider whether and to what extent they may continue to treat them in the same way. Certain expenses that are excludable from income when provided at the office or in a group setting may need to be run through payroll as wages if provided to employees working remotely or in a new environment.

Making matters even more challenging for payroll departments is that more employees are working from home and are now considering themselves either full-time remote or hybrid workers, working from one location several days during the week and then from the office for the remaining days of the week.

Hybrid and remote work arrangements may have withholding and reporting ramifications depending upon where the employee lives and works. This might in turn create income tax nexus issues for unwary employers that now find themselves in new jurisdictions.

Multistate Reporting

Handling the wage and tax allocation/reporting at year-end for the cross-border business traveler may be onerous and technically challenging. Employers of multistate workers and their third-party providers need to effectively manage the overall compliance issues associated with state-to-state, short-term business travel.

When working through the complexities of multistate withholding, practitioners should also consider the different tax treatment of various types of income, such as base compensation, bonus payments, and equity compensation. Employers need to apply, by state, any de minimis treatment, reciprocity, telecommuting regulations, and specific compensation reporting methodologies.

Employers need to capture all the employee-level data detailing how many days each employee performed services in the states where work was performed. If the travel data was tracked throughout the year and the employee's pay allocated accordingly, employers may want to review and make adjustments in December.

December also is a good time to communicate the issue of nonresident taxation to the affected employees.

Specific attention should be paid to local jurisdiction taxation. Localities have also faced changes with remote workforces, and some have instituted new guidelines on how they expect their tax to be implemented.

Reminder: Form W-2 has space to include wage and tax amounts for up to two states. If three or more states are involved, multiple Forms W-2 would be necessary. See the IRS instructions for Forms W-2 and W-3 instructions for details.

Amounts in Box 16, State Wages, should take into account unusual reporting requirements. For example, New York requires the amount in Box 16 to be the same as the wages in Box 1. When reporting two states including New York, the total of both Box 16s will not match Box 1. This may confuse employees, and so employers should consider providing an explanation to employees when delivering Forms W-2.

The explanation also could be used to alert the employee that they may want to seek help from a tax adviser because they may need to file more than one state individual income tax return.

15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name
NY	XXXXXXXXXX	87000.00	9000.00			
ME	XXXXXXXXXX	120000.00	10000.00			

Form **W-2** **Wage and Tax Statement** 2023

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

Cat. No. 10134D

Copy A—For Social Security Administration. Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.

Items of Note

Section 125 crossing years: Sometimes, after employees' returns from leaves of absence, money is owed to the employer for pre-tax medical benefits. If the deduction continues into 2024 for amounts owed on insurance coverage from 2023, it must be a post-tax deduction. The employee cannot pay for benefits on a pre-tax basis in a different year than the coverage.

State and local requirements: The focus at year-end for payroll involves the true-up not only for federal tax requirements but also applicable state taxes. While most states that have income taxes generally conform to federal definitions, there are some significant differences. **California** and **New Jersey**, for example, do not follow the federal exclusion for contributions to health savings accounts.

Several states continue to exclude from income some employer-paid moving expenses. These differences, if identified early enough, can translate to a smoother state year-end process and mitigate post-close issue identification and filings of Form W-2c, Corrected Wage and Tax Statement.

States continue to react to changes in the federal tax requirements that affect payroll. **Oklahoma**, for example, no longer accepts the federal Form W-4, Employee's Withholding Certificate, for state purposes. **New York** instituted an elective pass-through entity tax — a volunteer corporate payroll tax — in reaction to the new federally imposed $10,000 state tax deduction limit for individuals.

Some states have started to enact legislation requiring that certain payments by third parties, such as pharmaceutical companies, be counted toward cost-sharing requirements under applicable health plans, including annual deductible requirements. Employers should consider whether these rules apply and the potential effect on the employer's ability to offer a high-deductible health plan for federal tax purposes and, therefore, insureds' eligibility to participate in a tax-favored health savings account.

Keep in Mind

Moving expenses are still 100% taxable through 2025, except for active military members. However, state regulations on the taxability of these expenses may differ, so the relevant state income tax rules should be monitored and reviewed. Several states do not follow federal treatment on such expenses and may exclude taxes on the benefit.

Qualified transportation fringe benefits may still be provided tax-free to employees, except for bicycle commuting, up to stated monthly limits. Employers, however, may only take a deduction for most expenses related to providing this type of benefit in limited circumstances. As a result, some employers are amending their transportation benefits programs and policies, which may affect their taxability to employees.

Family- and medical-leave credits may still be available for some employers, based on wages paid to qualifying employees while on leave that is not Covid-19 related. Specific conditions and requirements must be met. **The credit has been extended through Dec. 31, 2025**.

For other taxes related to payroll, several jurisdictions are using withholding on employee wages to fund paid-leave programs or, in the case of **Washington**, a new payroll tax to fund the state's long-term care program.

At year-end, payroll professionals must also monitor and properly account for such items as minimum wage, paid-leave requirements, unemployment insurance, temporary disability, and workers' compensation, all of which are administered on a state and local basis.

Form W-2 Year-End Basics

The timely processing of accurate Forms W-2 is a key function of any payroll department. However, several potential pitfalls can easily derail the most basic requirements.

Form W-2 formatting: A common mistake is filing Forms W-2 labeled with the incorrect year. A 2023 form must be filed by Jan. 31, 2024. Entries for approved print copies must be in 12-point Courier font and black ink. Dollar amounts must have a decimal point and two decimal places, without a dollar sign or commas. No negative dollar amounts may be reported. The IRS cautions not to use a copy of Form W-2 downloaded from the IRS website, because it is not a scannable form.

Social Security numbers: Ensure that SSNs have nine digits. Since tax year 2022, the IRS lets employers truncate SSNs on employee copies (i.e., copies B, C, and 2). SSNs may not be truncated on Copy A, which is filed with the Social Security Administration, or on Copy 1, which is filed with the state, city, or local tax department.

Truncated SSNs may be displayed in either of two formats, which must display the last four digits. The truncated digits may be filled either with asterisks or the capital letter X (e.g., XXX-XX-1234 or ***-**-1234).

Employer Identification Numbers are not to be truncated on any copy of Form W-2.

Employee name: The SSA will not process Forms W-2 with misspelled names, incorrect formatting, and SSNs that do not match those in the SSA's system. Employers should consider using the SSA's Social Security Number Verification Service, which is fast, easy, and accurate.

Balance checks: Dollar limits exist for some boxes, including:

- Box 3, Social Security wages, is limited to $160,200
- Box 4, Social Security tax withheld, is limited to $9,932.40
- Box 12, Codes D and E is limited to $22,500 for those younger than 50 and $30,000 for those 50 and older

Codes: Codes for Box 12 may be a challenge. Report as Code DD the combined cost of the employer-provided health coverage, which includes both the employee and employer portions. Similarly, Code W is to include all employer contributions, including an employee's contributions through a cafeteria plan, to a health savings account. Ensure that earnings and deductions requiring Box 12 reporting include the correct code, especially after a system upgrade.

State and local reporting: Include state account numbers in Box 15 and follow special state reporting rules.

AccuWage Online: SSA can check Form W-2 files before submission for common problems and provide a report on issues that may prevent the submission from being accepted.

22222 VOID ☐ | a Employee's social security number XXX-XX-0000 | For Official Use Only OMB No. 1545-0008

b Employer identification number (EIN)	1 Wages, tips, other compensation 175000.00	2 Federal income tax withheld 22750.00
c Employer's name, address, and ZIP code NON-ENTRY ANYWHERE, USA	3 Social security wages 160200.00	4 Social security tax withheld 9932.40
	5 Medicare wages and tips	6 Medicare tax withheld
	7 Social security tips	8 Allocated tips
d Control number	9	10 Dependent care benefits
e Employee's first name and initial / Last name / Suff.	11 Nonqualified plans	12a See instructions for box 12: Code D 7500.00
NON-PERSON ANYWHERE, USA	13 Statutory employee ☐ Retirement plan ☒ Third-party sick pay ☐	12b Code DD 8300.00
	14 Other	12c
f Employee's address and ZIP code		12d

15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name
XX	XXXXXXXX	175000.00	8750.00			

Form **W-2** Wage and Tax Statement **2023**

Department of the Treasury—Internal Revenue Service

For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

Copy A—For Social Security Administration. Send this entire page with Form W-3 to the Social Security Administration; photocopies are **not** acceptable.

Cat. No. 10134D

Awards, Prizes, Gifts

The general nature of the federal tax code is to include the value of all items provided to employees as taxable compensation reported on Forms W-2, unless the items may be excluded by law, regulation, or agency position. Many employers get this wrong, especially at year-end.

Below is a synopsis of some of the items that may be excluded from taxable compensation and reporting.

Length-of-Service, Safety Awards, Gifts

The value of tangible employee achievement awards, such as length-of-service awards and safety awards, may be excluded from wages and reporting, provided requirements are satisfied and subject to limitations.[1] For example, the award must be presented in a meaningful ceremony and the circumstances must not indicate a likelihood that the award is disguised pay.

Awards are made under qualified or nonqualified plans, which have different requirements and carry different limitations. Awards to a single employee in a year are limited to $400 if not made under a qualified plan; the cumulative amount of awards given to an employee under a qualified plan are limited to $1,600 in one year, with the average cost of all awards made by the employer not exceeding $400.

The Tax Reform and Jobs Act clarifies that cash and cash equivalents; gift cards, coupons, and certificates; vacations; meals; lodging; tickets to sporting events; stocks, bonds, and securities; or similar items are not excluded tangible property and their value must be included as income.[2]

A **length-of-service award** must be in recognition of at least five years of service, provided the employee did not receive an award in the previous four years. Length-of-service awards given to retiring employees may be excluded from income if they meet the rules and limitations discussed above.

For **safety awards** to be considered tax-free to employees, no more than 10% of employees may qualify for the award. Awards to professional, administrative, and clerical employees are not eligible for tax-free treatment.

Awards for employee suggestions generally are taxable and subject to withholding and employment taxes.

Gifts to employees are included in income and reporting is required, with limited exceptions as described by the Internal Revenue Code, IRS, and Treasury Department regulations. Gift cards or gift coupons that may be redeemed for cash amounts are considered taxable compensation by the IRS.[3]

Exceptions lie in terms familiar to payroll professionals – *de minimis* benefits or working-condition fringe benefits. Many tangible items provided by employers to employees may be excluded from taxability to the employee if:

- The item is of low value (IRS does not define the term).
- The benefit is occasional and not consistently awarded, and the item's value is difficult to determine or administratively impracticable to track and apply.

Many other items might remain *de minimis* despite not meeting all the criteria above, including traditional birthday or holiday gifts of property, excluding cash, with a low fair-market value. Additionally, flowers, fruit, books, or similar property may be provided to employees under special circumstances (e.g., illness, outstanding performance, or family crisis), according to Treasury regulations.[4]

Gift Coupons

Employers must pay attention to gift-coupon arrangements. The IRS concluded that an employer-provided gift coupon with a defined face value of $35 could not be excluded from income as a *de minimis* fringe benefit.[5]

As detailed by the IRS, an employer that previously provided employees with tax-free hams, turkeys, or gift baskets as annual holiday gifts instead distributed $35 gift coupons redeemable for grocery products at select nearby stores.

The IRS ruled that the gift coupons were to be included as compensation and reported on Forms W-2 because such cash-equivalent fringe benefits have a readily determined value, regardless of whether they may be converted to cash. In short, it was not administratively impracticable to account for coupons that had a face value of $35.

[1] I.R.C. Section 274(j).
[2] I.R.C. Section 274(i)(3)(A)(ii).
[3] IRS Publication 15-B, *Employer's Tax Guide to Fringe Benefits*.
[4] Treasury Regulation Section 1.132-6(e)(1); IRS Publication 15-B, *Employer's Tax Guide to Fringe Benefits*.
[5] Technical Advice Memorandum 200437030.

Qualified Plans

Qualified deferred compensation plans generally refer to traditional retirement plans, such as 401(k) and pension plans.

The Internal Revenue Code details the limits of a defined contribution plan, including 401(k) plans, for all annual plan additions, such as employer contributions, employee contributions other than rollovers, and allocation of forfeitures. This limit is the lesser of $69,000 in 2024 ($66,000 in 2023) and 100% of the participant's compensation.[1]

The participant's compensation must be determined under the IRC even if a different definition is used for the plan, such as when calculating the rate of employer contributions. Catch-up contributions for participants who have reached age 50 during the year are not included in the limit.

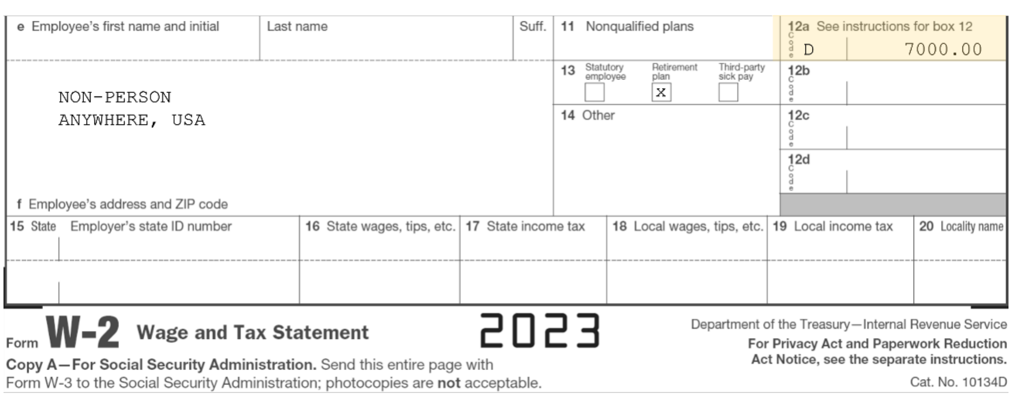
Note: The limitation year under the plan might not be the calendar year.

The elective deferral limit is $23,000 in 2024 ($22,500 in 2023).[2] Corrections are needed when there are excess deferrals, such as when an individual defers compensation exceeding the limit that may be applied as a catch-up contribution. Corrections generally take the form of distribution of the excess as well as any allocable earnings. Participants who are 50 and older at the end of the year can make an additional "catch-up" contribution up to $7,500 in 2023 (no change from 2022). If excess deferrals are not corrected in a timely manner, the participant may have additional taxable income and the plan's tax qualification status may be at risk.

Under the IRC, there is another limit for defined benefit plans which, when expressed as an annual benefit, is the lesser of $275,000 in 2024 ($265,000 in 2023), and 100% of the participant's average compensation for three consecutive highest-paid years.[3] A defined benefit plan's formula to determine annual benefits typically does not allow for a situation when the compensation limit would be exceeded, though the plan actuary still would likely monitor benefit payments for compliance.

For Form W-2 reporting, employers are to exclude from Box 1 wages, tips, other compensation, and the amounts deferred from pay by employees pre-tax into a qualified plan during the year, up to the annual limit. These amounts are not excluded for reporting wages in Box 3, Social Security wages, up to the wage base limit of $168,600 in 2024 ($160,200 in 2023), and must be included in Box 5, Medicare wages and tips. There is no wage base for Medicare contributions.

Box 12 includes codes to identify payments and deferrals. In Box 13, "Retirement plan" should be checked if the employee is an active participant in a qualified retirement plan for any part of the year. In other words, this box should be checked if the employee is covered for the tax year by a defined benefit plan, eligible to participate or covered by a defined contribution plan, and employer or employee contributions are added to the employee's account.


e Employee's first name and initial | Last name | Suff. | 11 Nonqualified plans | 12a See instructions for box 12 — Code D — 7000.00

NON-PERSON
ANYWHERE, USA

13 Statutory employee [ ] | Retirement plan [X] | Third-party sick pay [ ] | 12b

14 Other | 12c | 12d

f Employee's address and ZIP code

15 State | Employer's state ID number | 16 State wages, tips, etc. | 17 State income tax | 18 Local wages, tips, etc. | 19 Local income tax | 20 Locality name

Form **W-2** Wage and Tax Statement 2023

Department of the Treasury—Internal Revenue Service

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For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions.

Cat. No. 10134D

[1] I.R.C. Section 415(c).
[2] I.R.C. Section 402(g).
[3] I.R.C. Section 415(b).

Nonqualified Plans

Nonqualified deferred-compensation plans may require administering income tax and Federal Insurance Contributions Act taxes in different years.[1] This may apply to arrangements that provide a right to payment in a future year, such as excess benefit plans, supplemental executive retirement plans, salary and bonus deferral arrangements, restricted stock units, or phantom equity awards.

Nonqualified deferred compensation amounts generally are subject to FICA taxes in the year they become vested under the special-timing rule, but federal income taxation is generally delayed until amounts are paid or distributed.

Separate tracking may be needed for plans that provide for accelerated vesting upon a certain event, such as retirement, because participants may become vested and subject to FICA prior to the plan's general vesting schedule. As a result, FICA taxes may be due before federal income tax.

Vesting provisions may require that deferrals become vested over a period of years. Such deferrals may be subject to FICA over multiple years, even if amounts under the plan are later paid out as a lump sum. Employers should consider whether plan amounts may vest and be paid in different years, and whether any amounts became vested but were not paid out in 2021.

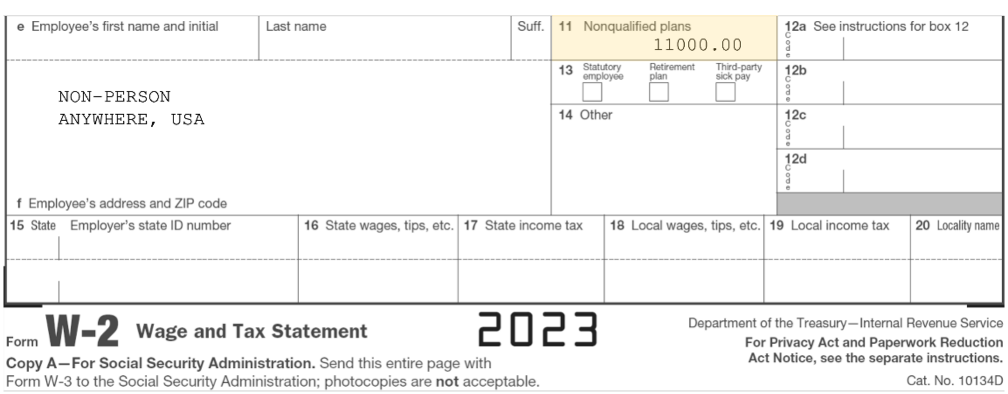
For plan amounts that vested earlier this year and will be paid or distributed in future years, it might not be too late to act for 2021. Under the special timing rule, employers may choose to take a deferred amount into account for FICA tax purposes on any date later than, but within the same year as, the date the amount was subject to FICA taxes. Once an amount is taken into account under the rule, later payments and earnings generally are not subject to FICA tax. In certain cases, the amount taken into account for FICA may be estimated within three months if interest is included. Box 11 of Form W-2 is used to explain discrepancies between Box 1 and Boxes 3 and 5 by reporting one of the following:

- The amount of a distribution that is included in Box 1 but was taken into account for FICA purposes in a prior year.
- The amount included in Boxes 3 and 5, although not yet subject to income tax.

Do not report amounts in Box 11 if there is a deferral and a distribution in the same year.

If nonqualified compensation amounts were vested in a prior year and not previously considered for FICA taxes, the approach for when and how to handle this may depend on when the amount became vested.

Additionally, employers may report current-year deferrals and earnings under nonqualified deferred-compensation plans subject to IRC Section 409A in Box 12 using Code Y. However, Code Y reporting remains optional for 2021. If any amount of nonqualified deferred compensation must be included in income because of a Section 409A failure, it should be reported in Box 12 using Code Z, in addition to Box 1.


e Employee's first name and initial | Last name | Suff. | 11 Nonqualified plans 11000.00 | 12a See instructions for box 12

NON-PERSON
ANYWHERE, USA

13 Statutory employee | Retirement plan | Third-party sick pay | 12b
14 Other | 12c | 12d
f Employee's address and ZIP code

15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name

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Department of the Treasury—Internal Revenue Service

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[1] I.R.C. Section 3121(v).

Supplemental Wages

Payroll professionals often handle special bonuses or other supplemental pay at year-end or early in the following year. Here are tips on how to be ready when word comes down that bonuses will be paid out.

For total supplemental pay up to $1 million in a year for any employee, employers must use either the aggregate method of withholding or the optional flat rate withholding method. Employers should consistently apply that method for each individual. There is no penalty for changing methods, but allowing employees to decide can be administratively impracticable.

The aggregate method combines supplemental wages with regular pay and tax is withheld using the applicable withholding tables for the payroll period in which the aggregated wages are paid. Such additions to pay may mean the total amount is taxed at a higher-than-normal rate for that pay cycle.

Those applying the optional flat rate withholding method must use a 22% withholding rate. To use the flat-rate method, income tax must have been withheld from the employee's regular wages during the calendar year the supplemental pay was paid or in the preceding year. The supplemental wage payment must either not be paid concurrently with regular wages or separately stated on payroll records.

For accumulated supplemental wages exceeding $1 million, the employer must withhold at a rate of 37%. Employers may not use the aggregate method for amounts exceeding $1 million. If the employees' accumulated supplemental amounts were less than $1 million before a supplemental payment, and this payment would cause them to exceed the $1 million threshold, the employer has two choices:

- Tax the amount that is less than $1 million at 22% and the amount that exceeds $1 million at 37%.
- Tax the entire amount at 37%.

The flat-tax rates were reduced starting in 2018 by the tax code overhaul. Employers should ensure their systems have been correctly applying the 22% and 37% rates.

Many states also allow flat rate withholding for supplemental pay. For state income taxation, see the state supplemental wage chart.

States With Flat Supplemental Wage Rates (2023)

State	Withholding Rate	State	Withholding Rate
Alabama	5%	Montana	6%
Arkansas	4.7%	Nebraska	5%
California	6.6 or 10.23%	New Mexico	5.9%
Colorado	4.55%	New York	11.7%
Georgia	2 - 5.75%*	North Carolina	4.85%
Idaho	6%	North Dakota	1.5%
Illinois	4.95%	Ohio	3.5%
Indiana	3.15%	Oklahoma	4.75%
Iowa	6%	Oregon	8%
Kansas	5%	Pennsylvania	3.07%
Kentucky	4.5%	Rhode Island	5.99%
Maine	5%	South Carolina	6.5%
Maryland	3.2 - 8.95%*	Vermont	6.6 - 11.1%*
Michigan	4.05%	Virginia	5.75%
Minnesota	6.25%	Wisconsin	3.54 - 7.65%*
Missouri	4.95%		

2023 Rates Listed are Subject to Change
* Rates Vary by Amount or Type of Payment

Health Savings Accounts

Health savings accounts, available only when qualified high-deductible health insurance plans are offered, provide a tax-favored savings mechanism to offset the costs of health care.[1] Although the basic rules on HSA contributions and reporting are fairly straightforward, these rules may cause some confusion at year-end in a few areas:

Form W-2 Reporting

Employers generally are required to report HSA contributions made in the year on the employee's Form W-2, in Box 12 with Code W.

Box 12 should report all employer contributions to the HSA in the applicable year, including employee contributions through an IRC Section 125 cafeteria plan and those designated as made for the prior year. Employee contributions made to an HSA outside of a Section 125 cafeteria plan are generally included in gross income and should be reported as wages on Form W-2 in Box 1. If the wrong amount is reported in Box 12, such as not counting employee contributions made through a cafeteria plan, Form W-2 should be amended to provide the correct amount.

Note that some states, including California and New Jersey, do not exempt contributions to HSAs from state income tax.

Maximum Annual Contribution

The tax-free limits on combined employer and employee HSA contributions are indexed for inflation.

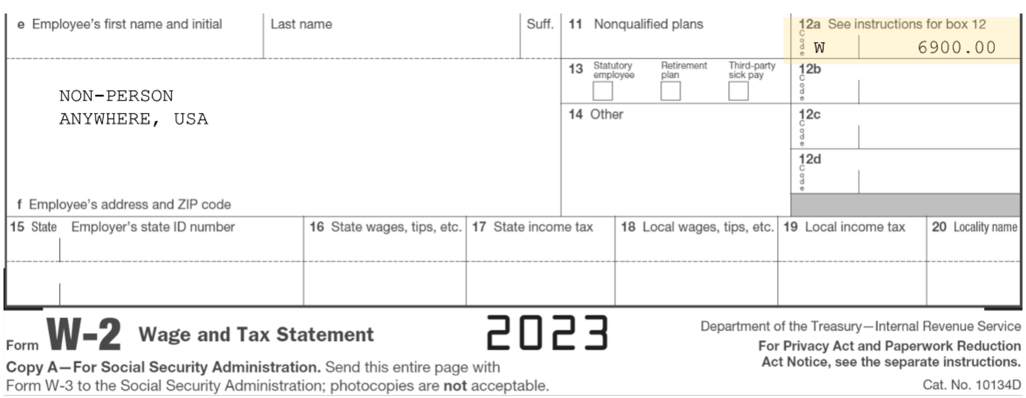
The HSA contribution limits for 2024 are $4,150 for self-only coverage and $8,300 for family coverage. Those 55 and older can contribute an additional $1,000 as a catch-up contribution.

Recovering HSA Contributions Made in Error

In general, employers may not recoup funds deposited into an employee's HSA. In some cases, employers may recover contributions made in error, but action generally must be taken before the end of the year.

Employer contributions inadvertently made to employees who were never considered eligible may be recovered through a request made to the relevant financial institution.

Employer contributions exceeding the maximum annual contributions allowed because of errors, including administrative mistakes and employee elections not processed on time, may be corrected by requesting that the funds be returned. To the extent not recovered by the end of the tax year, excess employer contributions must generally be reported as wages on the employee's Form W-2.


e Employee's first name and initial | Last name | Suff. | 11 Nonqualified plans | 12a See instructions for box 12 | Code W | 6900.00

NON-PERSON
ANYWHERE, USA

13 Statutory employee | Retirement plan | Third-party sick pay | 12b

14 Other | 12c | 12d

f Employee's address and ZIP code

15 State | Employer's state ID number | 16 State wages, tips, etc. | 17 State income tax | 18 Local wages, tips, etc. | 19 Local income tax | 20 Locality name

Form **W-2** Wage and Tax Statement 2023

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[1] I.R.C. Sections 106(d), 223.

Group-Term Life Insurance

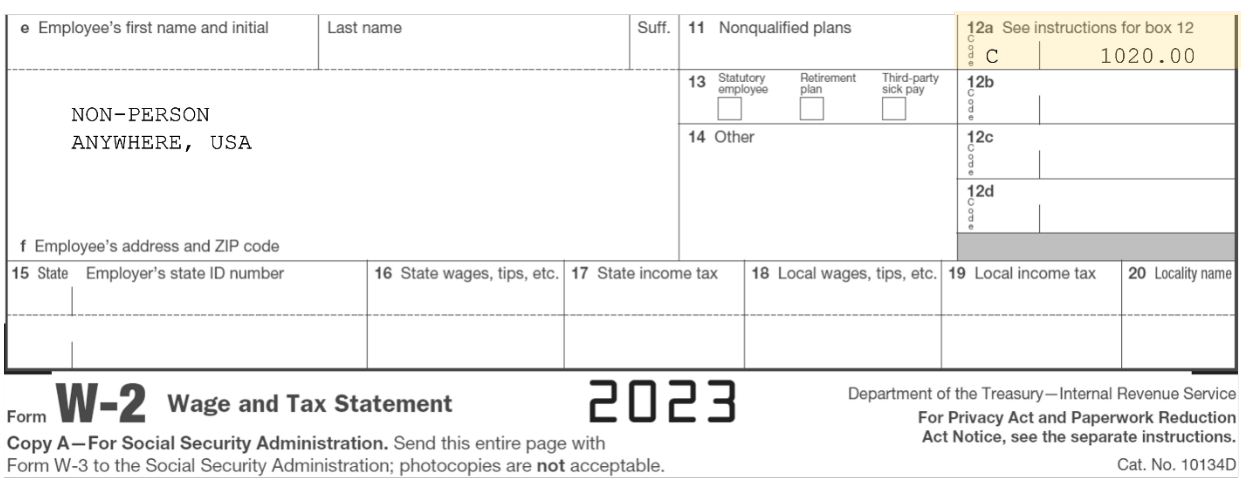
Employers generally are required to impute amounts as taxable income for employer-provided group-term life (GTL) plans that exceed $50,000 in benefit value.[1] Although federal income taxes are not withheld for this income, FICA taxes generally must be withheld when the income is assigned, and these amounts are reportable on Form W-2. The cost of the additional benefit value, in addition to being added to taxable compensation on Form W-2 in Boxes 1, 3, and 5, must be reported in Box 12, using Code C. The amount included as wages is reduced by any amount paid by the employee with after-tax dollars for the insurance. These rules may be different for key employees if they are favored under the GTL plan.

While the basic calculation for employers providing GTL is not difficult, one area that often is forgotten is when employers offer employees the ability to purchase additional GTL coverage, often referred to as "optional life" or "supplemental life." When employees pay for the entire additional coverage, the employee-purchased coverage amount may need to be added to the calculation for the overall valuation of GTL.

Under the IRC, amounts carried directly or indirectly by the employer through arranged payments, negotiated rates, and other arrangements for the coverage to be available should be included when calculating the attributed income. These amounts may be figured using IRS Uniform Table 1, which is included in Publication 15-B, *Employer's Tax Guide to Fringe Benefits*.

More complexity occurs when supplemental term life insurance rates qualify under the "straddle test," in which case that coverage should be included in the overall GTL calculation. Under the straddle test, at least one employee is charged a rate lower than the IRS Uniform Table I rates and at least one employee is charged a rate higher than those in the IRS Uniform Table I.

If all age bracket rates charged to the employees are higher or are all lower than the IRS Uniform Table I rates, the amounts generally are not considered carried by the employer. Thus, the coverage should not be included in the overall group-term life calculation.


e Employee's first name and initial | Last name | Suff. | 11 Nonqualified plans | 12a See instructions for box 12 — Code C — 1020.00

NON-PERSON
ANYWHERE, USA

13 Statutory employee | Retirement plan | Third-party sick pay

12b

14 Other

12c

12d

f Employee's address and ZIP code

15 State | Employer's state ID number | 16 State wages, tips, etc. | 17 State income tax | 18 Local wages, tips, etc. | 19 Local income tax | 20 Locality name

Form W-2 Wage and Tax Statement 2023

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[1] I.R.C. Section 79(a).

SECURE 2.0: Effective 2024

The SECURE 2.0 act, a law designed to expand and improve retirement savings options, was signed into law in December 2022. Though some of the acts most noteworthy provisions, like the required Roth treatment of tax contributions or automatic 401(k) enrollment, will not take effect until after 2025, employers can begin using some of the acts new tools to modify and enhance their 401(k) and 403(b) plans in 2024 and 2025.

Convert SIMPLE IRA Plans to Safe Harbor 401(k)

Generally, employers are prohibited from replacing a SIMPLE IRA plan with a 401(k) unless the plan has been in place for at least two years. Employers who chose to rollover the plan prior to this two-year period faced a penalty of 25% in addition to the payment of taxes. Under the SECURE 2.0 act, this two-year rollover limitation is waived. This provision is effective on Jan. 1, 2024.

Student Loan Match

Section 110 of the act is intended to help employees who might not be able to save for retirement because they are overwhelmed with student debt and thus are missing out on their employers' available matching contributions. Section 110 allows an employer to make matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA with respect to an employee's "qualified student loan payments." The act broadly defines "qualified student loan payments" as any indebtedness incurred by the employee solely to pay the employee's qualified higher education expenses.

Employers may rely on employee certification of payment prior to making matching contributions.

For nondiscrimination testing, employees receiving matching contributions for student loan repayments may be tested separately from other plan participants. Matching contributions must be at the same rate as contributions on account of qualified student loan payments. Section 110 is effective for contributions made for plan years beginning in 2024 and later.

Emergency Withdrawals

Generally, an additional 10% tax applies to early distributions from tax-preferred retirement accounts, unless exceptions apply. Section 115 provides an exception for certain distributions used for emergency expenses, which are unforeseeable or immediate financial needs relating to personal or financial emergency expenses. Only one distribution of up to $1,000 is permissible per year, and the taxpayer has the option to repay the distribution within three years. As a result, the distribution might be subject to income taxes, but it would not be subject to the additional 10% early-withdrawal penalty. Employers may rely on the employee's written certification that the employee satisfies the conditions in determining whether any distribution is an emergency personal expense.

No further emergency distributions are permitted until the distributed amount is repaid. If the amount is not directly repaid, emergency funds may be accessed again once the total amount of the contributions made to the plan after the distribution are at least equal to the amount distributed. Section 115 is effective for distributions starting in 2024 and later.

Long-Term Part-Time Employee Participation

SECURE 2.0 echoes the first SECURE Act's requirement that employer-sponsored plans allow long term part-time workers to participate. Section 125 of the act says employers maintaining a 401(k) plan that is not collectively bargained must include a dual-eligibility requirement under which a part-time employee must complete either one year of service with at least 1,000 hours of work or three consecutive years of service in which the part-time employee completes at least 500 hours of work. The three-year rule is reduced to two years for plan years beginning in 2025 and later.

Wage & Hour: Joint Employer Rule

On Oct. 26, the National Labor Relations Board issued a final rule for determining when two businesses jointly employ the same workers and are subject to shared liability for violations under the National Labor Relations Act. The updated joint employer rule reestablishes the NLRB's long held common-law standard, replaced in 2020 under a Trump-era rule, making it easier for multiple companies to qualify as joint employer. The new rule is effective Dec. 26 and only applies to cases filed after the effective date.

The NLRA does not define joint employment, but joint employment is said to exist when two or more employers codetermine the terms and conditions of employment for employees under their shared control. Some examples of terms and conditions of employment include establishing wage rates, approving overtime, and setting work hours and schedules.

Under the 2020 rule currently in effect, joint employment is found if the employer possesses and exercises "*substantial direct and immediate control*" over essential terms and conditions of employment. The updated rule requires the board to focus on forms of "*indirect and reserved controls*" relating only to essential terms and conditions of employment. This clarification is in response to a 2018 decision from the US Court of Appeals for the District of Columbia Circuit that distinguished between control over the essential terms and conditions of employment and the routine components of a company-to-company contract. The court determined that a joint employer's control must bear on the former.

Under the new rule, two entities may be considered a joint employer if each entity has an employment relationship with the employees and they share or codetermine one or more of the employees' essential terms and conditions of employment, defined exclusively as:

- Wages, benefits, and other compensation.
- Hours of work and scheduling.
- The assignment of duties to be performed.
- The supervision of the performance of duties.
- Work rules and directions governing the manner, means, and methods of the performance of duties and the grounds for discipline.
- The tenure of employment, including hiring and discharge.
- Working conditions related to the safety and health of employees.

The joint employment standard is only implicated if an entity employs the workers at issue and has authority to control at least one of the seven terms or conditions of employment. The new rule comes after a comment period that drew over 13,000 comments, all of which were reviewed and considered in drafting the final rule.

NLRB vs DOL

Changes in federal regulation on joint employment have varied between the NLRB and the Department of Labor. While the NLRB has recently updated its joint employer rule, the DOL, which enforces wage and hour laws under the FLSA, has no plans to regulate the issue. In 2021, the DOL rescinded a 2020 joint employer rule that limited the circumstances under which businesses shared liability for wage violations. The current FLSA joint employer standard applies a totality-of-the-circumstance's, economic-realities approach.

Wage and Hour: Federal Developments

Federal Contractor Minimum Wage

The minimum wage for a select group of federal contractors will increase to $17.20 effective Jan. 1, 2024, an increase from the current rate of $16.20. The wage applies to both tipped and nontipped employees and covers contracts that were entered into, renewed, or extended, on or after Jan. 30, 2022.

The increase is a result of Executive Order 14026, signed by President Biden on April 27, 2021, phasing out the lower cash wage that contractors may pay tipped employees and established a minimum wage of $15 per hour, with annual adjustments for inflation thereafter. Following the signing of EO 14026, three states filed suits alleging the increase is either unlawful under the Administrative Procedure Act or, if found legal, the states allege the action is unconstitutional.

In October, a Texas district judge agreed, and granted plaintiffs an injunction against the EO in Louisiana, Mississippi, and Texas, preventing the order from going into effect in the three states. The Biden administration is likely to appeal the decision, and the increase of $17.20 is effective Jan. 1, 2024, for all states other than Louisiana, Mississippi, and Texas.

Prevailing Wages

The DOL recently solidified changes to federally required prevailing wages under the Davis-Bacon Act, changes the Biden administration hopes will ensure higher paying jobs. This update is the first comprehensive regulatory review of the act in nearly 40 years. The final rule, published Aug. 23, has been in effect since Oct. 23.

The DBA, enacted in 1931, requires the payment of locally prevailing wages and fringe benefits to laborers and mechanics as determined by the DOL. The DOL determines the prevailing wage through a survey process and designates a rate as prevailing if more than 50% of workers in a certain area are paid that amount. Under the new rule, the 50% threshold decreased to 30%, a change which the DOL believes will allow the agency to set an official prevailing wage more often. The rule also includes new language – such as "solar panels" and "installation of car chargers" – that would subject green projects to prevailing wage requirements under the law.

The act applies to direct federal contracts and District of Columbia contracts exceeding $2,000 for the construction, alteration, or repair of public buildings or public works. Covered contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wage rates and provide fringe benefits as required by the applicable wage determination.

Additionally, the update clarifies cross-withholding procedure for recovering back wages by including new language in the withholding contract clauses, which clarifies that withholding may be accomplished on contracts held by agencies other than the agency that awarded the contract. The DOL also created a mechanism allowing contractors to consent to cross-withholding of owed back wages.

Overtime Rule Exception

The Biden administration's much anticipated final rule updating the FLSA's overtime white-collar exemption is expected to arrive in the coming months. The update is expected to implement an automatic increase to the standard salary level and compensation threshold for highly compensated employees. Employees that meet the white-collar exemption are exempt from both minimum wage and overtime pay. The FLSA applies to all employees engaged in interstate commerce unless the employer can claim an exemption from coverage.

Under current law, a white-collar exemption applies to professionals, administrative, and executive employees. The test for determining exempt status weighs the duties and responsibilities of the employee over the job title. Highly compensated employees, defined as employees who perform office work and receive a total annual compensation of at least $107,432, need only meet one prong of the duties test to qualify as exempt.

The proposal was published in August and comments were received through Nov. 7. As of Nov. 6, the DOL had received 23,802 comments on the proposal. Once finalized, the rule could become effective as early as May 1, 2024.

State Payroll Developments

In 2023, states across the country enacted tax laws that created new compliance obligations for employers. **Alabama** became the first state to exempt certain overtime pay from state income tax, **Vermont** established a new payroll tax to subsidize child-care costs in the state, **Arkansas** substantially modified its unemployment insurance program, and **Maine** and **Minnesota** became the newest states to create family-leave insurance programs.

Alabama became the first state to exempt certain types of overtime pay from state income taxes. The exemption will be in effect from Jan. 1, 2024, through June 30, 2025, and apply to overtime wages received by hourly paid employees during that time. The wages under the exemption include both the straight-time pay and overtime premium earned for work in excess of 40 hours in a week. If an employee works in Alabama and another state, only the wages subject to Alabama withholding will apply toward that 40-hour threshold.

Employers will also be required to report overtime wages starting for tax year 2023, even though the exemption does not apply until Jan. 1, 2024. Employers must report overtime wages for tax year 2023 by Jan. 31, 2024. Starting in tax year 2024, employers will have to report overtime wages on a quarterly or monthly basis.

Vermont created the Child Care Financial Assistance Program, funded through a payroll tax known as the Child Care Contribution starting July 1, 2024. The contribution rate will be 0.44% of covered wages, or 0.11% of a self-employed individual's income. Employers may deduct one quarter of the tax, or 0.11%, from employees' wages.

The tax will apply to employers that are required to withhold Vermont income tax from employees' wages and to employees who have Vermont income tax withheld. Wages subject to federal income tax withholding are subject to the tax, and employers must remit the tax to the Vermont Department of Taxes using the same requirements that apply to Vermont's income tax, including the time and manner of payment.

Arkansas passed legislation modifying its unemployment insurance program starting in 2024. The tax rate for new employers will be 1.9%, down from 2.9% in previous years. The maximum tax rate for negative-rated employers will decrease to 10$, compared to 14% in previous years.

The legislation contains a separate provision that will set the state's unemployment-taxable wage base at $7,000 if the state unemployment insurance trust fund is over $600 million as of June 30 of the most recently completed state fiscal year. Additionally, any unemployment-taxable wage base increases will be limited to $2,000 each year.

The state also recharacterized its stabilization tax as an administrative assessment. The administrative assessment is 0.125% of the unemployment-taxable wage base from July 1, 2023, through June 30, 2024, and will lower to 0.1% thereafter.

Maryland delayed its family-leave insurance program until Oct. 1, 2024. The initial contribution rate, in effect through at least June 30, 2026, will be 0.9% of covered wages up to the Social Security taxable wage base, which is $168,600 in 2024. Employees and employers are each responsible for paying half of the 0.9% rate, or 0.45%. Employers with fewer than 15 employees are exempt from the employer portion of the tax but are still required to withhold and remit the employee portion.

Maine created a family-leave insurance program effective Jan. 1, 2026. Contributions will begin on Jan. 1, 2025.

Minnesota's family-leave insurance program will begin collecting contributions on Jan. 1, 2026.

International Payroll

A change to the federal e-filing threshold for **Canada** takes effect Jan. 1, 2024. Employers filing at least six information returns with the Canada Revenue Agency, down from at least 51 information returns, must file electronically. Affected forms include T4 slips, Statement of Remuneration Paid; T4A slips, Statement of Pension, Retirement, Annuity, and Other Income; and T4E slips, Statement of Employment Insurance and Other Benefits.

A new penalty of C$125 (US$90.12) applies when a business filing from six to 50 information returns files on paper instead of electronically. The penalty increases depending on the number of forms a business must file.

Since 2022, **Argentina** has increased the amount of monthly income that is exempt from income tax several times to progressively exempt more employees from income tax. The final increase took effect Oct. 1 and exempts monthly income of up to 1.7 million Argentine pesos (US$4,856.82).

Law No. 27,725, published Oct. 6, subsequently changes the income tax brackets to be based on the monthly minimum wage in effect Jan. 1, 2024. Only workers who earn more than 180 times that monthly minimum wage annually, or more than 15 times that monthly minimum wage per month, will be subject to income tax. The tax brackets will be adjusted based on the minimum wage in effect Jan. 1 and July 1 of each year. The changes mean that less than 1% of employees will be subject to income tax.

Additionally, Argentina's minimum wage has increased every month since August 2022. The monthly minimum wage effective Dec. 1 is ARS 156,000, compared to ARS 47,850 for August 2022.

Ireland simplified withholding for nonresidents who work both inside and outside Ireland when the work inside Ireland is not incidental, meaning the employee works there for at least 30 days in a year.

Employers can request to withhold taxes for days worked in Ireland for those nonresidents. Normally, income and social taxes must be withheld from all income paid to nonresidents who work both inside and outside Ireland when the work inside Ireland is not incidental, even though nonresidents would only be subject to tax on work performed in Ireland. Under normal procedure, the nonresident must then file an Irish tax return to request a refund of the extra tax withheld.

Japan's prime minister Fumio Kishida instructed the government to consider a temporary income tax reduction. The proposal may take the form of a 40,000 yen (US$267.24) lump-sum income tax rebate for individuals.

By the Numbers

Federal Limits

	2024	2023
Social Security (OASDI) Wage Base	$168,600	$160,200
Basic Deferral Limits		
Section 401(k), 403(b)	$23,000	$22,500
Catch-Up	$7,500	$7,500
SIMPLE	$16,000	$15,500
Section 457	$23,000	$22,500
Defined Contribution Maximum Annual Addition	$69,000	$66,000
Defined-Benefit Plan Limits	$275,000	$265,000
Compensation Limits, Credits, and Triggers		
Qualified Plans	$345,000	$330,000
Highly Compensated Employee	$155,000	$150,000
Compensation Limit	$505,000	$490,000
Dollar Limit for Key Employee (Top-Heavy Plan)	$220,000	$215,000
Compensation Amount for Control Employee	$135,000	$130,000
Foreign-Earned Income Exclusion Limit	$126,000	$120,000
Adoption Assistance	$16,810	$15,950
Per Diem Rates		
Standard	$166	$157
High-Low Method	$309, $214	$297, $204
Health Plan Limits		
Health Flexible Spending Arrangements	$3,200	$3,050
Health Savings Account Contributions–Single	$4,150	$3,850
Health Savings Account Contributions–Family	$8,300	$7,750
Federal Vehicle Valuations		
Mileage Rates (Per Mile)		
Business	TBD	65.5 cents
Charitable	TBD	14 cents
Medical	TBD	22 cents
Luxury Car Definition		
(Ineligible for Cents-Per-Mile Use Valuation)		
Fair-Market Value Greater Than Listed for Employer-Provided	TBD	$56,100
Vehicles First Made Available in 2021 and 2022		
Tax-Free Transportation Benefits (Monthly)	TBD	$300
Fleet Average Maximum Value		
Fair-Market Value (Before Averaging) Cars & Trucks	TBD	$56,100

By the Numbers

2024 Hourly Minimum Wage Rates

Jurisdiction	Base Hourly Minimum Wage
Federal	$7.25
Federal Contractor	$12.25
Alabama	$7.25
Alaska	$11.73
Arizona	$14.35
Arkansas	$11
California	$16
Colorado	$14.42 (Proposed)
Connecticut	$15.69
Delaware	$13.25
District of Columbia	$17 *
Florida	$12 *
Georgia	$5.15
Hawaii	$14
Idaho	$7.25
Illinois	$14
Indiana	$7.25
Iowa	$7.25
Kansas	$7.25
Kentucky	$7.25
Louisiana	$7.25
Maine	$14.15
Maryland	$15
Massachusetts	$15
Michigan	$10.33 *
Minnesota	$10.85, $8.85 ‡
Mississippi	$7.25

Jurisdiction	Base Hourly Minimum Wage
Missouri	$12.35
Montana	$10.30
Nebraska	$12
Nevada	$11.25, 10.25 until 6/30 ‡ then $12 for all employers
New Hampshire	$7.25
New Jersey	$15.13, $13.93, 12.81 ‡
New Mexico	$12
New York	$16, $15 ‡
North Carolina	$7.25
North Dakota	$7.25
Ohio	$10.45
Oklahoma	$7.25 **
Oregon	$13.20 - $15.45 ‡ *
Pennsylvania	$7.25
Puerto Rico	$9.50 *
Rhode Island	$14
South Carolina	$7.25
South Dakota	$11.20
Tennessee	$7.25
Texas	$7.25
Utah	$7.25
Vermont	$13.67
Virginia	$12
Washington	$16.28
West Virginia	$8.75
Wisconsin	$7.25
Wyoming	$5.15

‡ Varies by Employer Size, Location, Benefits Provided

* Subject to Change

** Exceptions Apply

By the Numbers

Unemployment Insurance Wage Bases

State	2024	2023
Alabama	$8,000	$8,000
Alaska	*	$47,100
Arizona	$8,000	$8,000
Arkansas	$7,000	$7,000
California	$7,000	$7,000
Colorado	**$23,800**	$20,400
Connecticut	**$25,000**	$15,000
Delaware	*	$10,500
District of Columbia	$9,000	$9,000
Florida	$7,000	$7,000
Georgia	$9,500	$9,500
Hawaii	*	$56,700
Idaho	*	$49,900
Illinois	*	$13,271
Indiana	$9,500	$9,500
Iowa	**$38,200**	$36,100
Kansas	$14,000	$14,000
Kentucky	*	$11,100
Louisiana	*	$7,700
Maine	$12,000	$12,000
Maryland	$8,500	$8,500
Massachusetts	$15,000	$15,000
Michigan	$9,500	$9,500
Minnesota	*	$40,000
Mississippi	$14,000	$14,000
Missouri	***$10,000***	$10,500
Montana	**$43,000**	$40,500
Nebraska[1]	$9,000; $24,000	$9,000; $24,000
Nevada	**$40,600**	$40,100
New Hampshire	$14,000	$14,000
New Jersey	**$42,300**	$41,100
New Mexico	*	$30,100
New York	**$12,500**	$12,300
North Carolina	*	$29,600
North Dakota	*	$40,800
Ohio	$9,000	$9,000
Oklahoma	*	$25,700
Oregon	**$52,800**	$50,900
Pennsylvania	$10,000	$10,000
Puerto Rico	*	$7,000
Rhode Island[1]	*	$28,200; $29,700
South Carolina	$14,000	$14,000
South Dakota	$15,000	$15,000
Tennessee	*	$7,000
Texas	$9,000	$9,000
Utah	**$47,000**	$44,800
Vermont	**$14,300**	$13,500
Virginia	$8,000	$8,000
Washington	**$68,500**	$67,600
West Virginia	*	$9,000
Wisconsin	$14,000	$14,000
Wyoming	**$30,900**	$29,100

Changes for 2023 are in **bold**. Wage bases that decreased are in ***bold italic***.
* Wage bases to be announced

[1] In Nebraska and Rhode Island, experienced employers assessed the maximum unemployment tax rate are assigned a higher wage base.

By the Numbers

2024 Family-Leave Insurance Chart

Jurisdiction	Taxable Wage Base	Employer Contribution	Employee Contribution
California	N/A	N/A	1.1%
Colorado	$168,600	0.45%; N/A ‡	0.45%
Connecticut	$168,600	N/A	0.5%
Delaware (eff. 2025)	OASDI wage base	0.8% *	N/A
District of Columbia	N/A	0.26%	N/A
Maine (eff. 2025)	OASDI wage base	1%; 0.5% ‡ *	N/A
Maryland (eff. 10/1)	$168,600	0.45%; N/A ‡	0.45%
Massachusetts	$168,600	0.42%; N/A ‡	0.46%
Minnesota (eff. 2026)	OASDI wage base	0.7% *	N/A
New Hampshire ±	N/A	Varies	Varies
New Jersey	$161,400	N/A	0.09%
New York	$1,718.15 per week	N/A	0.373%
Oregon	$168,600	40% of 1% contribution‡	60% of 1% contribution
Rhode Island	TBD	N/A	TBD
Vermont ± (eff. 7/1)	$168,600	Varies	Varies
Virginia ±	N/A	Varies	Varies
Washington	$168,600	28.57% of 0.74% premium	71.43% of 0.74% premium

* Employers may deduct part of the contribution from employees' wages

± Voluntary program

‡ Varies by employer size

By the Numbers

Local Minimum Wages

State	Locality	2024 Minimum Wage	Previous Minimum Wage
Arizona	Flagstaff	$17.40	$16.80
	Tucson	$14.35	$13.85
California	Alameda *	$16.52	$15.75
	Belmont	$17.35	$16.75
	Berkeley *	$18.07	$16.99
	Burlingame	$17.03	$16.47
	Cupertino	$17.75	$17.20
	Daly City	$16.62	$16.07
	East Palo Alto	$17.10	$16.50
	El Cerrito	$17.92	$17.35
	Emeryville *	$18.67	$17.68
	Foster City	$17	$16.50
	Fremont *	$16.80	$16
	Half Moon Bay *	$17.01	$16.45
	Hayward ‡	$16.90; $16	$16.34; $15.50
	Los Altos	$17.75	$17.20
	Los Angeles *	$16.78	$16.04
	Los Angeles County *	$16.90	$15.96
	Malibu *	$16.90	$15.96
	Menlo Park	$16.70	$16.20
	Milpitas *	$17.20	$16.40
	Mountain View	$18.75	$18.15
	Novato ‡	$16.86; $16.60; $16.04	$16.32; $16.07; $15.53
	Oakland	$16.50	$15.97
	Palo Alto	$17.80	$17.25
	Pasadena *	$16.93	$16.11
	Petaluma	$17.45	$17.06
	Redwood City	$17.70	$17
	Richmond	TBA	$16.17
	San Carlos	$16.87	$16.32
	San Diego	$16.85	$16.30
	San Francisco *	$18.07	$16.99
	San Jose	$17.55	$17
	San Leandro †	$16	$15.50
	San Mateo	$17.35	$16.75
	San Mateo County	$17.06	$16.50
	Santa Clara	$17.75	$17.20
	Santa Monica	$16.90	$15.96
	Santa Rosa	$17.45	$17.06
	Sonoma ‡	$17.60; $16.56	$17; $16
	Sonoma County	TBA	$17.65
	South San Francisco	$17.25	$16.70
	Sunnyvale	$18.55	$17.95
	West Hollywood *	$19.08	$18.35; $17.50; $17

Local Minimum Wages (cont'd)

State	Locality	2024 Minimum Wage	Previous Minimum Wage
Colorado	Boulder County	$15.69	N/A
	Denver	$18.29	$17.29
	Edgewater	$15.02	N/A
Illinois *	Chicago ‡	$15.80; $15	$15.40; $14.50
	Cook County	$13.70	$13.35
Maine	Portland	$15	$14
	Rockland	$15	$14
Maryland	Howard County †	$15	$15; $13.25
	Montgomery County *‡	$16.70; $15	$16.70; $15; $14.50
	Prince George's County †	$15	$13.25; $12.80
Minnesota	Minneapolis *‡	$15.57; $14.50	$15.19; $14.50
	St. Paul *‡	$15.57; $15; $13; $11.50	$15.19; $15; $13; $11.50
New Mexico	Albuquerque †	$12	$12
	Bernalillo County †	$12	$12
	Las Cruces	$12.36	$12
	Santa Fe **	TBA	$14.03
	Santa Fe County **	TBA	$14.03
New York	New York City	$16	$15
	Nassau, Suffolk, Westchester counties	$16	$15
	Rest of the state	$15	$14.20
Oregon *	Nonurban counties	$13.20	$12.50
	Portland metro area	$15.45	$14.75
	Standard rate	$14.20	$13.50
Washington	Seatac	$19.71	$19.06
	Seattle ‡	$19.97; $17.25	$18.69; $16.50
	Tacoma †	$16.28	$15.74
	Tukwila ‡	$20.29; $18.29 (eff. 7/1: $19.29)	$18.99; $16.99

* Certain 2024 minimum wage rates effective July 1, 2023, through June 30, 2024

‡ Varies by employer size or other factors

† Minimum wage in effect is state minimum wage

** Rates are effective March 1 through Feb. 28

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