Payroll Insights

Employment tax news to guide you now and for the future

July 2024

John's *fresh take:* Anticipating the impact of expiring tax provisions on payroll and benefits

It's been almost 7 years since the Tax Cuts and Jobs Act (TCJA) was signed into law. The TCJA modified the Internal Revenue Code (IRC) significantly with respect to tax rates and credits, and many of the provisions are set to expire at the end of 2025.

While 2025 feels like a long time from now, it can take months to make business decisions and update policies, procedures, and pay codes to revert to the pre-TCJA rules. While you're making these plans, keep in mind that provisions of the TCJA may be extended or adopted permanently before the end of 2025.

Payroll tax—related provisions currently set to expire after 2025 include:

- Moving expenses—the TCJA disallowed moving expenses reimbursements as a nontaxable benefit.
- Commuting, including bicycle commuting, expenses—the TCJA disallowed most commuting expense reimbursements as a nontaxable benefit.
- Educational assistance programs—the TCJA allowed certain employer payments of an employee's qualified student loan and interest under a Section 127 educational assistance program to be a nontaxable benefit. The IRS released additional FAQ on this benefit in June 2024.

An employee may need to adjust their Form W-4 based on the expiration of these provisions:

- Standard deduction—the TCJA revised personal income tax calculations by removing personal credits and increasing the standard deduction that could be used in lieu of itemizing.
- Itemized deductions—the TCJA set a ceiling for the amount that could reduce taxable income for certain itemized deductions, such as state taxes, mortgage interest, and medical expenses.

We'll keep you up to date on any changes in future editions of Payroll Insights.

Federal updates

Reminder—Changes to wage and hour laws effective July 1, 2024

The DOL announced a Final Rule raising the minimum salary and annual compensation thresholds to qualify for the executive, administrative, or professional (White Collar) exemptions from overtime under the Fair Labor Standards Act (FLSA). Pursuant to the April 11, 2024 final rule (at 29 CFR Part 541, "Final Rule") regarding revisions to the FLSA, the first round of changes become effective July 1, 2024. These changes include increases to the standard and highly compensated employee (HCE) salary levels to $844 per week and $132,964 per year, respectively. These amounts will increase again on January 1, 2025, pursuant to the new benchmarking methods detailed in the Final Rule and will be updated every three years.

The standard salary level through June 30, 2024 was $684 per week. For an employee to be exempt from the FLSA overtime rules, in general, they must be paid a salary of at least the standard salary level per week and primarily perform executive, administrative, or professional duties. The Department of Labor estimates that one million employees became nonexempt on July 1, 2024 due to the standard salary increase, and another three million may be affected upon the next standard salary increase (to $1,128 per week) on January 1, 2025.

The annual salary for the HCE test through June 30, 2024 was $107,432 per year. For an employee to be exempt from the FLSA overtime rules under the HCE test, the employee must earn at least the minimum HCE salary in place and meet the relaxed duties test, which is less stringent than the standard duties test. The Department of Labor estimates that approximately 292,900 employees are no longer exempt under the HCE test as of July 1, 2024. An employee who does not earn more than the prescribed amount for the HCE test should be subject to the standard duties tests to determine eligibility for exemption from the FLSA overtime rules.

The Department of Labor, Wage and Hour Division released an FAQ page that may be helpful to employers looking for additional clarification on the Final Rule.

E-filing available for Form 941-X

Effective June 16, 2024, the IRS will accept Forms 941-X, *Adjusted Employer's Quarterly Tax Return or Claim for Refund,* electronically through its Modernized e-File system. The e-File system allows certain taxpayers and third-party providers to file a form electronically, bypassing the IRS mail room and reducing human error that can occur by manually entering data into the IRS systems.

Updated per diem rates in foreign jurisdictions

On June 1, 2024, the U.S. Department of State released the foreign per diem rates to be used effective immediately. The rates for certain cities in Brazil, Canada, Japan, and Mexico were among those affected.

State updates

California Supreme Court hears gig worker classification arguments

On May 21 and 22, 2024, the California Supreme Court heard oral arguments regarding the validity of Proposition 22 ("Prop 22"), or the "Protect App-Based Drivers and Services Act". The appeal is in response to a March 2023 ruling of the appeals court's determination that parts of Prop 22 related to amendments are not constitutional, but the Prop 22 clauses that classify gig workers as independent contractors are allowable. The contested issue is if voters have the authority to make changes to the workers' compensation laws in a popular vote. The legality of classifying certain workers as independent contractors by statute is not being argued.

Colorado temporary income tax rate reduction

On May 14, 2024, the Colorado Governor signed State Bill 24-228, which amended the Colorado Revised Statutes to reduce the current income tax rate of 4.4% to 4.25% for the remainder of 2024. The amendments include graduated tables of reductions in the income tax rate for future years (until 2035) based on the total excess state revenues. Beginning October 2024, Colorado will review its excess state revenues from the prior fiscal year (ending June 30) and set the income tax rate for the following calendar year based on these graduated tables.

Georgia releases updated tax rates

In May 2024, the Georgia Department of Revenue released its 2024 *Employer's Withholding Tax Guide.* Effective retroactively to January 1, 2024, the guide reflects tax rate and standard deduction changes enacted in House Bill 1015. The top income bracket will decrease from 5.49% to 5.39% and will continue to decrease by 0.1% annually until the tax rate is 4.99%, pursuant to certain limitations.

Hawaii releases updated withholding guidance

On June 3, 2024, Act 46 was effectuated, retroactive to January 1, 2024. Act 46 provides for increases in the standard deduction amounts and amends the income tax tables through 2031 and 2029, respectively. The Hawaii Department of Taxation will release an updated Form HW-4, *Employee's Withholding Allowance and Status Certificate, and Booklet A, Employer's Tax Guide,* later this year, which will be effective January 1, 2025.

Idaho releases 2024 withholding rates

On May 21, 2024, the Idaho Department of Revenue released Publication EPB00744, T*able for Percentage Computation Method of Withholding.* The income tax rate was reduced from 5.8% in 2023 to 5.695%, retroactive to January 1, 2024, pursuant to House Bill 0521 that was signed into law earlier this year.

Massachusetts finds success with its "Millionaire Tax"

Effective July 1, 2023, Massachusetts assessed an additional 4% income tax on income in excess of $1 million. As reported by the State House News Service, on May 20, 2024, the Department of Revenue certified that the "millionaire tax" brought in over $1.8 billion in taxes from July 1, 2023 through April 30, 2024, which is $0.8 billion more than originally anticipated.

Missouri ruling on St. Louis City earnings tax for remote workers

The Missouri Court of Appeals affirmed a ruling from the Circuit Court of the City of St. Louis that wages paid to remote workers performing services outside of St. Louis (or "the City") should not be subject to the St. Louis Earnings Tax (the "Earnings Tax"). The trial court issued a final judgment on March 30, 2023, that only wages for services performed physically in St. Louis should be subject to the Earnings Tax, and any overwithheld Earnings Tax should be refunded to the employee by the City.

A nonresident of the City can claim a refund of overpaid taxes resulting from work days outside of St. Louis by completing page one of Form E-1R, *Individual Earnings Tax Refund Request,* and the employer should complete the Employee Verification Section on page two.

Ohio releases updated withholding guidance

On May 31, 2024, the Ohio Department of Revenue updated its withholding guidance, effective July 1, 2024. Ohio's income tax withholding rates will decrease, and the updated tables should be used to calculate income tax withholding for both the percentage and computer methods.

South Carolina passes regulations for earned wage access services

On May 21, 2024, the South Carolina Governor signed State Bill 700, creating the "South Carolina Earned Wage Access Services Act". This Act, effective November 21, 2024, codifies rules that a service provider must follow in order to provide earned wage access services, which is defined in the Act as "the business of providing consumer-directed wage access services or employer-integrated wage access services, or both." Other provisions include restrictions on these service providers around fees charged to employees and employers and requirements for annual certification. The Act does not shift any reporting or withholding obligations from the employer to the service provider.

South Carolina is the fifth state to regulate earned wage access services, after Nevada, Missouri, Wisconsin, and Kansas.

Utah releases updated withholding guidance

On May 31, 2024, the Utah State Tax Department released a draft of Publication 14, *Withholding Tax Guide,* that would be effective June 1, 2024. By law, Utah must present the updates in a public meeting before the Publication can be finalized. The updated Publication 14 reflects the tax rate decrease signed into law on March 14, 2024, reducing the tax rate from 4.65% to 4.55%

Get to know one of our Employment Tax professionals: Monica Wajsman

Monica is a Certified Public Accountant and has over 12 years of experience with the KPMG Employment Tax group. She specializes in consulting with companies on the payroll tax implications of acquisitions and internal reorganizations. Monica's expertise ensures that businesses navigate complex tax landscapes with confidence and compliance. Outside of her professional life, Monica enjoys spending time playing with her dog, Bailey, and putting together puzzles.

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