



# Payroll Insights

Employment tax news to guide you now and for the future

October 2024



## John's fresh take: Year-end is upon us

Year-end is quickly approaching and this one is promising to be one for the record books. Election years tend to make for several unsettling months as we await a new administration and Congress. As a result, we won't see the usual flurry of payroll updates in October through December at the federal level. These likely won't be issued until the start of the year once the president is sworn in. The two candidates have stated that their administrations will make changes to how we handle payroll taxes in 2025. Here is a summary of their proposals to date:

**Former President Trump:** Under his proposal, there would be no taxes on all overtime worked. The Tax Cuts and Jobs Act provisions would be extended and he would eliminate tax on tips that are provided in the service industry. In addition, he would end tax on Social Security benefits as well as lower the corporate income tax rate to 15 percent.

**Vice President Harris:** There would be the restorations of the Earned Income Tax Credit as well as a new Child Tax Credit. There would be no income tax on tips but tips would still be subject to payroll taxes. Harris would also undo parts of the Tax Cuts and Jobs Act.

State updates and legislation are still moving forward and we will see our usual flurry of state unemployment insurance rate and wage base adjustments as well as newly enacted taxes and programs at the state and local levels. We will continue to bring those updates in each addition of *Payroll Insights* as they are released.



### The ERC saga continues

On September 19, the Internal Revenue Service (IRS) provided taxpayers two years to appeal an employee retention credit (ERC) disallowance but is requiring them to include extensive documentation in their appeal. The IRS, on their webpage dedicated to the ERC, explained that taxpayers will have two years to appeal their 105-C Letter, "Disallowance of the Employee Retention Credit." Normally, taxpayers have a 30-day deadline to appeal a disallowance. They also have two years to file a lawsuit.

This update is the result of the taxpayer advocate calling for a wider appeal window after taxpayers have voiced their frustration over the first wave of 105-C Letters that have been issued in July of this year. In addition, for any taxpayers who would like to dispute the disallowance of any ERC claim, supporting documentation relating to the claim must be provided.

Along with an explanation that addresses the reason for the initial denial, taxpayers should submit documentation proving eligibility for at least one of the credit requirements for each quarter the ERC was claimed, including whether the taxpayer's business was suspended from a COVID-19 government order or whether it experienced a decline in gross receipts. In addition, confirmation of the ERC calculation itself must be included along with a description of the taxpayer's business.

### IRS issues 401(k) match guidance for student loan repayments

On Monday, August 16, the IRS issued guidance for the treatment of 401(k) and 403(b) plans for student loan repayments.

The interim guidelines, published in [IRS Notice 2024-63](#), instruct plans on how and when employers can offer matching funds for employees repaying student loan debt, aligning with a provision of the Secure 2.0 Act. This provision helps employees build retirement savings while repaying student loans.

The guidance specifies that employer contributions to loan repayments must match the rate and vesting schedule of regular retirement plan contributions. Additionally, employees must annually self-certify their loan repayments to qualify for matching. The guidelines also provide special relief from nondiscrimination testing requirements for plans offering student loan matching contributions. These rules apply to plan years starting after December 31, 2024, with further regulations expected.

### Per diem rates updated for fiscal year 2025

The General Services Administration (GSA) has issued its annual updated list of federal maximum per diem rates for travel to locations within the continental United States. The new rates are effective for travel undertaken on or after October 1, 2024.

### GSA federal per diem rates

The federal per diem rate is a combination of the lodging expense rate and the meal and incidental expense (M&IE) rate for the locality of travel. For travel within the continental United States, the per diem rates published by the GSA may be used to substantiate for certain travel expenses. For fiscal year 2025, the M&IE rate will increase to \$68 (from \$59).

The M&IE rates for nonstandard areas (NSAs) will also increase to \$68, \$74, \$80, \$86, and \$92 (from \$59, \$64, \$69, \$74, and \$79). The rates were last revised in 2022; as such, employers should make sure to use the updated rates after October 1, 2024.

## Federal updates (continued)

### Foreign per diem rates

The [US State Department](#) has updated foreign per diem rates for over 145 locations, including cities in countries such as Indonesia, Japan, and the UK, effective September 1. These rates serve as the maximum tax-free reimbursement for US government employees on official foreign travel.

### IRS updates specifications for substitute Forms W-2 and W-3 for 2024

The IRS issued updated requirements for the private printing of paper substitutes for Form W-2, Wage and Tax Statement, and Form W-3, Transmittal of Wage and Tax Statements, for amounts paid in 2024. Key updates include the introduction of a new Box 12, Code II for Medicaid waiver payments, updates on designated Roth contributions, enhanced electronic filing requirements, and increased penalties for noncompliance. These updates are documented in Rev. Proc. 2024-27, which is the latest revision of [IRS Publication 1141](#), General Rules and Specifications for Substitute Forms W-2 and W-3.

### IRS issues specification for substitute Forms 1099 for 2024

The IRS issued requirements for tax year 2024 for the private printing of paper substitutes for Forms 1042-S, 1096, 1098, 1099, and 5498 and certain other information returns in Rev. Proc. 2024-29. This revenue procedure is reproduced in the latest revision of [Publication 1179](#), General Rules and Specifications for Substitute Forms. Key updates include a reduced threshold for mandatory electronic filing to 10 forms, effective January 1, 2024, and the introduction of the Information Reporting Intake System, a free online portal for e-filing information returns. Additionally, the due date for furnishing certain statements to recipients, such as Forms 1099-B, 1099-S, and 1099-MISC, is February 17, 2025.

## State updates

### Alabama reporting of tax-exempt overtime wages

Effective October 1, 2024, amounts paid as overtime compensation, in accordance with the Fair Standards Act, should be excluded from gross income and therefore exempt from Alabama state income tax. Employers are required to report the total aggregate amount of exempt overtime paid and the total number of employees who received exempt overtime pay on the Form A-6 (monthly) and Form A-1 (quarterly). At this time, the Alabama Department of Revenue is proposing that the exempt overtime wages be reported in Box 14 of the employees' Forms W-2, Wage and Tax Statement, using "EX OT WAGES" as the indicator.

### Michigan Supreme Court decides changes to minimum wage and more in 2025

Effective February 21, 2025, the Michigan Supreme Court has reinstated the original versions of the Improved Workforce Opportunity Wage Act and the Earned Sick Time Act. This decision concludes a legal dispute that began in 2018 when the Michigan legislature amended these voter-initiated laws, making them less burdensome for employers. The court ruled that the legislature's amendments were unconstitutional. As a result, Michigan employers must prepare for significant changes, including increased minimum wages adjusted for inflation and expanded paid sick leave obligations.

### Minnesota increases minimum wage for 2025

Minnesota's minimum wage is moving away from a two-tiered minimum wage in 2025 and will start a standard new minimum wage rate of \$11.13/hour. For large employers (over \$500,000 in gross revenue), this will be an increase of \$0.28 and for small employers (less than \$500,000 in gross revenue), an increase of \$2.28. The cities of Minneapolis and St. Paul have higher hourly minimum-wage rates (\$15.57 and \$12.25–\$15.57, respectively). Employers must display updated state-mandated posters (which are to be made available this fall) and provide written notice of wage changes to employees before they take effect.

### New Jersey releases updated 2025 unemployment insurance tax rates

New Jersey has updated its unemployment insurance tax table for employers, effective for July 1, 2024 to June 30, 2025. Experienced employers will use Table D, with tax rates from 0.6 percent to 5.4 percent for positive-rated employers and 5.6 percent to 6.4 percent for negative-rated employers. New employers will have a reduced rate of 3.1 percent. Included in these rates is 0.1175 percent for the Workforce Development Fund and Supplemental Workforce Fund. New Jersey determines employer tax rates on a fiscal-year basis and will release calendar-year-based employee tax rates later in the year. For 2025, the unemployment taxable wage base will be \$43,300, a \$1,000 increase from 2024. Additionally, the taxable value of meals and lodging for 2025 has been specified as:

- Full room and board: \$291.40
- Lodging per week: \$124.90
- Meals per day: \$33.30 (\$10 for breakfast and lunch and \$13.30 for dinner).

### New York announces changes to withholding tax wage reporting in 2025

The New York Department of Taxation and Finance will implement changes to withholding tax and wage reporting forms, as well as the online Web File services, impacting employers' filings for 2025. The changes aim to simplify the forms and filing processes. Specifically, Form NYS-45, which includes Unemployment Insurance information, Withholding Tax information, and quarterly employee/payee wage reporting and withholding information, will no longer be filed in separate parts. Instead, all three parts must be submitted together as a single return. Additionally, if employers need to report both "wages" and "other wages," then these must also be submitted together on one return. If any amendments need to be made, then an employer must complete a new file, not just the changes; however, the information from the original return will prepopulate for ease of filing.

### New York AB 9265 – Contractor requirement to send records to DOL

On September 4, 2024, Gov. Kathy Hochul signed [AB 9265](#) into law. According to AB 9265, certain contractors and subcontractors performing services in construction, demolition, reconstruction, excavation, rehabilitation, repair, installation, renovation, alteration, or custom fabrication are required to submit payroll records to the New York Labor Department, monthly. This bill requires the contractors and subcontractors to submit reports such as a copy of the state contract payment bond, the name and address of each worker, the hours and days worked, the workers' occupations, the hourly wage rate(s), and wage-hour notices provided to employees. Wage supplements must also be reported, including documentation of any funds, plans, or programs, once every 30 days while work is being performed under the contract. Failure to comply with this new requirement can result in a \$100 daily penalty until the records are provided.

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