

Payroll Insights

Employment tax news to guide you now and for the future

January 2025



John's *fresh take*: Year-end payroll challenges in 2025: Ensuring compliance and accuracy

We've made it to 2025! But, for those of us in payroll, we haven't quite made it out of 2024. January can be a frenzied month of confirming year-end adjustments have been processed, all employees are receiving an accurate Form W-2, and Forms 1099-NEC are issued for nonemployee compensation in excess of \$600. (If you missed it, see the December edition of *Payroll Insights* for helpful information about year-end considerations and checklist.)

In addition to year-end reporting for your current employee population, remember that those employees who transferred in or out of the company in an acquisition, sale, or reorganization midyear might also require 2024 returns. Depending on the nature of the transfer, your company may be on the hook for issuing Forms W-2 to employees who have not been your employees in months. Or, perhaps, your current employee population transferred into the company eight months ago, and you're responsible for reporting the full year of wages and taxes on the Form W-2 you are issuing.

You're not done! Are there any additional state or local annual returns that will be needed? Will you or your payroll provider file the Schedule D with the fourth quarter Form 941?

All these questions and actions require more work than the typical, already hectic, January. However, compliance with these rules is instrumental in avoiding future notices (e.g., a Form W-2 mismatch notice), which are typically not issued for two years. Penalties for failure to timely furnish Forms W-2 to the employee and Social Security Administration can be up to \$8 million for a large business.

We recommend taking the time to review any transfers of populations that occurred during the year and confirm if any of these actions are required. It will be worth it!

Federal updates

New form 15620 for Section 83(b) elections

The Internal Revenue Service (IRS) has introduced Form 15620, *Section 83(b) Election*, to simplify the process of making Internal Revenue Code Section 83(b) (Section 83[b]) elections, which allows employees to choose to be taxed on restricted property, such as restricted stock, at the time of grant rather than upon vesting. Use of this form is optional, but it provides a standardized format, eliminating the need to create bespoke written statements.

Under Section 83(a), property transferred in connection with service is generally included in gross income when it becomes transferable or is no longer subject to forfeiture. However, Section 83(b) permits employees to elect to include the property's fair market value in their taxable wages at the time of transfer, potentially reducing future tax liabilities. This election can be beneficial if the property is expected to appreciate significantly, as future gains may be taxed at capital gains rates instead of ordinary income rates when the property vests.

A critical aspect of making a Section 83(b) election is meeting the 30-day filing deadline. The election must be filed with the IRS within 30 days of the property transfer date. As this is statutory, there isn't flexibility with this deadline. However, a Section 83(b) election will be considered timely filed if the 30th day is a Saturday, Sunday, or legal holiday provided it is postmarked by the next succeeding day that is not a Saturday, Sunday, or legal holiday. This deadline is essential for ensuring the election's validity and securing the intended tax benefits.

Note: Restricted stock units, options, and phantom awards generally are not eligible for Section 83(b) elections as they do not involve the transfer of restricted property prior to vesting.

Excessive employer reimbursements included in regular rate of pay

According to the US Department of Labor's Wage and Hour Division (WHD) opinion letter, dated November 8, 2024, employee expense reimbursements are generally excluded from regular rate of pay calculations required for overtime pay under the Fair Labor Standards Act unless they are deemed excessive. The letter provided guidance to an oil and gas company that currently reimburses its employees \$25 per day for using their own tools and equipment. The company was considering increasing this reimbursement to \$150–\$200 per day and sought clarification on whether this higher amount could still be excluded from the regular pay rate.

In this case, the WHD determined that a daily reimbursement of \$150 to \$200 for tools and equipment likely cannot be excluded from the regular pay rate. This proposed increase is significantly higher than the current \$25 daily rate, and the company did not provide evidence to justify that employees incur such high expenses.

The WHD clarified that only the actual or reasonably estimated expenses can be excluded from the regular rate of pay. While there is no specific formula for calculating reimbursable expenses, the method used must reasonably reflect the employee's actual costs. If the reimbursement exceeds the reasonable estimate of actual expenses, then the excess must be included in the employee's regular pay rate.

Released IRS forms and publications

Final form W-4 series for 2025

The IRS finalized the 2025 Form W-4, *Employee's Withholding Certificate*, Form W-4S, *Request for Federal Income Tax Withholding from Sick Pay*, Form W-4P, *Withholding Certificate for Periodic Pension or Annuity Payments*, and Form W-4R, *Withholding Certificate for Nonperiodic Payments and Eligible Rollover Distributions*. Notably, the 2025 Form W-4 and instructions include guidance on use of the Tax Withholding Estimator. No other substantive changes were made to the 2024 version.

Final Form 940, Instructions, Schedule A for 2024

The IRS has released the final 2024 versions of the annual federal unemployment tax return, its instructions, and one of its schedules.

The 2024 update account for credit reductions in California, New York, and the US Virgin Islands. California and New York have credit reductions of 0.9 percent, while the US Virgin Islands has a reduction of 4.2 percent, as detailed in Schedule A, *Multi-State Employer and Credit Reduction Information*. Employers in these regions must complete Schedule A when filing [Form 940, Employer's Annual Federal Unemployment \(FUTA\) Tax Return](#).

Additionally, the form's instructions indicate that employers can file amended Forms 940 using the IRS's Modernized e-File system.

Final 2025 Form 1042-S and instructions

There are several important changes to the 2025 Form 1042-S, including a checkbox for revision of certain withholding amounts, two additional status codes, and three additional income codes. A new form, Form 15397, *Application for Extension of Time to Furnish Recipient Statements*, should be used to request a one-time, 30-day extension for providing Forms 1042-S to the recipient, beginning with forms reporting for 2025. The original due date of these forms will be March 16, 2026.

Final 2025 Publications 15, 15-A, and 15-T

Other than updates to example tax calculations, there have been no substantive changes to the 2025 Publication 15 (Circular E), *Employer's Tax Guide*, or Publication 15-A, *Employer's Supplemental Guide*, from the draft versions.

The IRS released the final income tax withholding tables and methods for 2025 with Publication 15-T, *Federal Income Tax Withholding Methods*. The Publication updates the percentage-method and wage-bracket tables to reflect 2025 rates. Employers should confirm with their payroll providers that these tables will be in place for the first payroll of 2025.

Draft 2025 Publication 15-B

The IRS released the draft Publication 15-B, *Employer's Tax Guide to Fringe Benefits*.

The draft of Publication 15-B incorporates the 2025 values of benefits that have already been provided by the IRS, such as those related to transportation exclusion benefits and the definitions of highly compensated, key, or control employees. Additionally, the publication features a new section on educational assistance for self-employed workers, shareholders, and company owners.

Mileage reimbursement rate for 2025 announced

On December 19, the IRS announced that the 2025 standard business mileage reimbursement rates will be \$0.70 per mile, up from \$0.67 per mile in 2024.

The notice also reports the maximum fair value of a car that may first be made available to an employee in 2025 to be \$61,200, for purposes of utilizing the cents-per-mile and fleet-average valuation rules. Publication 15-B provides more detail on these valuation rules.

State updates

Aurora, Colorado occupational privilege tax repeal

The [Occupational Privilege Tax](#) in Aurora, Colorado, will be repealed effective January 1, 2025. Until then, businesses are required to continue collecting the tax. The final returns to be filed will cover December 2024 and the fourth quarter of 2024, with a due date of January 31, 2025. The city will continue to process amended returns, returns for periods prior to January 2025, and refund claims.

Cincinnati, Ohio teleworker settles income tax lawsuit

A teleworker employed by two Cincinnati-based companies has reached a settlement with the city in his lawsuit seeking a tax refund for the period he worked remotely during the COVID-19 pandemic. As a result, the Ohio Supreme Court granted dismissal of the case.

John Price, the plaintiff, worked from his home in Green Township, Ohio, in 2020 for two Cincinnati-based employers due to the pandemic, and both employers deducted Cincinnati municipal income tax from his wages. Usually, only wages for services physically performed in Cincinnati by a nonresident are subject to Cincinnati local taxes. For a period in 2020, Ohio issued a house bill (H.B. 197) advising employers that wages paid to teleworkers performing services from home due to the pandemic should continue to be sourced to their primary work location for income tax withholding purposes.

Price sought a refund of approximately \$1,100, claiming H.B. 197 only applies to the employer withholding obligation, and shouldn't affect an individual's tax liability. Mediation was requested following Price's appeal of the Ohio Board of Appeals' ruling against him. The court's announcement of the settlement did not disclose any financial terms or additional details.

California

Update for payroll tax relief for employers affected by emergencies

In November 2024, the California Employment Development Department (EDD) expanded payroll tax relief to include employers in Ventura County, City of Oceanside, Sierra County, and Siskiyou County affected by fires. Employers directly impacted by these fires can request up to a two-month extension from the EDD to file their state payroll reports and deposit payroll taxes without facing penalties or interest, as per section 1111.5 of the California Unemployment Insurance Code.

In December 2024, the EDD added several counties affected by the earthquake to the same extension. Also in December, the EDD allowed California employers who were directly affected by the "Bird Flu" to request extensions. The request must be received by the EDD within two months from the original due date of the payment or return.

Increase to state disability insurance tax rate

For 2025, the California disability insurance tax (SDI) rate will increase to 1.2 percent, up from 1.1 percent in 2024. California SDI should be withheld from employee wages. Effective 2024, there is no wage limit, and all wages should be subject to SDI withholding.

New York

Dispute over taxation of remote workers

The legal battle over New York's taxation of remote workers may be over for Cardozo Law School Professor Edward Zelinsky's challenge of the state's "convenience of the employer" rule. This rule allows New York to impose income tax on nonresidents if their employer is based in the state, even if they work remotely.

Zelinsky, who worked from his Connecticut home in 2019 and 2020, argues that he is owed a refund for taxes imposed on his income during those periods, particularly when he was required to work from home due to the COVID-19 pandemic and couldn't access his New York City classroom. The New York State Tax Appeals Tribunal heard Zelinsky's arguments and, on November 30, 2024, upheld the denial for the claim for refund issued by the Division of Taxation.

Minimum wage updates

Minimum wage requirements vary from state to state, as well as locality to locality. We recommend reviewing your obligations with a labor law consultant in order to ensure that you are compliant. See below for a nonexhaustive list of updates:

Alaska

- Effective July 1, 2025, Alaska's minimum wage will increase to \$13 per hour, then to \$14 per hour effective July 1, 2026, and lastly to \$15 per hour effective July 1, 2027.

Arizona

- Effective January 1, 2025, Arizona's minimum wage will increase to \$14.70 per hour.

California

- Effective January 1, 2025, Oakland, California's minimum wage will increase to \$16.89 per hour.
- Effective January 1, 2025, Richmond, California's minimum wage will increase to \$17.77 per hour.
- Effective January 1, 2025, Menlo Park, California's minimum wage will increase to \$17.10 per hour.
- Effective January 1, 2025, Foster City, California's minimum wage will increase to \$17.39 per hour.

Colorado

- Effective January 1, 2025, Colorado's minimum wage will increase to \$14.81 per hour.

Maine

- Effective January 1, 2025, Rockland, Maine's minimum wage will increase to \$15.50 per hour.

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