Featured story

- Correcting 2015 Form W-2 errors
When, why and how to correct 2015 Form W-2 errors
Top 10 most common 2015 Form W-2 errors and how to fix them............................... 2
Important facts to remember about Forms W-2c and replacement forms ............... 9
Other payroll returns affected by Form W-2c .......................................................... 11
Sample employee request for a replacement Form W-2 ........................................... 12

Employment tax reporting
IRS provides guidance on 2015 retroactive increase in transit benefits ................. 13
Work Opportunity Tax Credit guidance for 2015 ...................................................... 15

On the Hill
President proposes new national wage insurance ..................................................... 16

Crossing the states
States projected to be subject to federal unemployment insurance credit reduction in 2016 ................................................................. 18

State news

Payroll tax calendar
Federal employment tax due dates for February 2016 ............................................. 34
From the editor

Debby Salam, CPP
Editor-in-chief
Payroll Perspectives from EY

Treat yourself! You’ve made it through the most difficult part of the year-end busy season. But now it’s time to respond to Form W-2 questions from employees, and perhaps their tax advisors, and this too can be challenging.

In this special edition of Payroll Perspectives, we provide you with information on how to correct the most common Form W-2 reporting errors as well as other helpful information, such as considerations when replacing lost forms, how long you should wait before filing Forms W-2c with the Social Security Administration, and other returns you may need to file when correcting a Form W-2.

Keep in mind that employees may challenge information you have correctly shown on the Form W-2. It is important to have employees carefully explain why they believe you have made an error, and to keep records and documents on hand to support your conclusions. If employees continue to challenge what you believe to be a correct Form W-2, you may want to consider reaching out to your company’s tax advisor to help you prepare an independent, third-party response.

Warmly,

[Signature]

Are you ready for the new year?

Gaps in your payroll system or employment tax processes can easily go undetected and may result in costly errors in Forms W-2 and other employment tax returns. Get ahead of the curve by planning now.

For all of our payroll essentials, visit us at:
or use the search term “EY year-end checklist”

Connect with us

Follow us on Twitter
Join us on LinkedIn: Payroll Perspectives from EY
Join us on LinkedIn: Global Payroll Perspectives from EY
Read our blog at Payroll Perspectives From EY
Correcting 2015 Form W-2 errors – how, why and when to act

Have you discovered errors on your 2015 Form W-2? That's OK. It happens. But now it's important to understand which mistakes require your attention, how to fix them, why taking care of them is important and what deadlines apply.

In this special report, we offer you Form W-2c essentials, including:

- How to fix these 10 common 2015 errors:
  - Incorrect Employer Identification Number or Social Security Number
  - Incorrect employer name
  - Incorrect employee name or address
  - Insufficient Additional Medicare Tax or federal income tax withholding
  - Incorrect use of box 13 retirement plan indicator
  - Social Security wage reporting errors for nonqualified deferred compensation
  - Excess contributions to a Health Savings Account or health flexible spending account
  - Wrong amount reported for employer-sponsored health insurance in box 12, Code DD
- Form W-2c mechanics
  - How long an employer has to correct a Form W-2
  - Penalties for filing late or incorrect Forms W-2
  - Employer liability for tax preparation and other costs incurred by employees because of a Form W-2c
  - Considerations when issuing a replacement Form W-2
  - Other payroll tax returns affected by a Form W-2c
  - Sample employee request for a Form W-2/W-2c replacement

For the Forms W-2 filing due dates, see our year-end checklist here.

For the top 10 FAQs for preparing Forms W-2, see our report here.

For all of our year-end essentials, see our website here.
Ten common 2015 Form W-2 errors and how to fix them

Despite best efforts to produce accurate Forms W-2, employees and their tax advisors may raise questions that bring some errors to light. Fortunately, the IRS and most state/local taxing authorities give businesses some time to resolve these errors with employees before filing the governmental copies of Forms W-2. For instance, the IRS gives employers until February 29, 2016 (March 31 if filing electronically), to file Forms W-2, Copy A. (For the state Forms W-2 filing due dates, see our 2014 year-end checklist here.)

Here we will discuss the top 10 Form W-2 errors for tax year 2015 and how to fix them.

### Top 10 Form W-2 errors for tax year 2015

1. **Employee name or Social Security Number is missing or incorrect.**

   The IRS requires that employers correct errors made in the employee's name or Social Security Number (SSN). How to correct these errors depends on the facts and circumstances as shown in the chart below. (*General Instructions for Forms W-2 and W-3.*)

   > Keep in mind that an error includes leaving the employee name or SSN blank on the Form W-2 or showing the SSN as “000 00 0000” or “applied for.”

   Also remember that if employees have changed their name (e.g., marriage or divorce) they are required to complete Form W-4. Remind employees that if the last name on the Form W-4 differs from that on their Social Security card, they must check box 4 on the Form W-4.

<table>
<thead>
<tr>
<th>Nature of name or Social Security Number error</th>
<th>Correction to Form W-2c</th>
<th>Correction to Form W-3c</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee name or SSN was incorrectly reported on original Form W-2.</td>
<td>Complete boxes d-i for up to the statute of limitations. Tell employee to correct the Form W-2 attached to Form 1040.</td>
<td>Complete boxes d-j for at least up to the statute of limitations.</td>
</tr>
<tr>
<td>Employee obtains new or reissued Social Security card (e.g., change in US resident status or name change).</td>
<td>Complete boxes d-i only for most current year.</td>
<td>Complete boxes d-j only for most current year.</td>
</tr>
<tr>
<td>Name and SSN were blank on original Form W-2.</td>
<td>Call SSA at +1 800 772 6270 for instructions.</td>
<td>Call SSA at +1 800 772 6270 for instructions.</td>
</tr>
</tbody>
</table>

2. **Missing or incorrect employer name**

   The IRS will match the first four numbers of the EIN to the employer name on record and possibly reject the Form W-2 file based on the name/TIN mismatch.

   Whether a penalty will apply for incorrectly reporting the employer’s name is uncertain. The IRS states in the Form W-2 instructions that an inconsequential error or omission is not considered a failure to include correct information for purposes of imposing the penalties under IRC §6721 and §6722.

   An inconsequential error or omission is defined by the IRS as one that does not prevent or hinder the SSA/IRS from processing the Form W-2, from correlating the information required to be shown on the form with the information shown on the payee's tax return, or from otherwise putting the form to its intended use. Errors and omissions that are never inconsequential are those relating to:
   - A TIN
   - A payee's surname
   - Any money amounts (*General Instructions for Forms W-2 and W-3.*)

   Keep in mind that if the error in completing this field makes it such that the employee doesn’t recognize the employer name, this could result in employee confusion and concern sufficient to necessitate a correction.
3. Error in the Employer Identification Number (EIN) or tax year

An error in the EIN or tax year on Form W-2 can create numerous time-consuming issues for employers, including a mismatch in the wages and taxes reported on Forms W-2 and those reported on Forms 941. For this reason, a penalty is imposed for EIN and tax year reporting errors.

Correcting the tax year or EIN reported on Form W-2 involves a two-step process. (General Instructions for Forms W-2 and W-3.)

Step 1: Correct the originally issued Forms W-2 by preparing Forms W-2c and W-3c as follows:

- Show the incorrect tax year in box c and/or the incorrect EIN in box b.
- In the previously reported column, show the money amounts originally reported.
- In the corrected amounts column, show zeroes.

Give employees a copy of Forms W-2c and file Forms W-2c and W-3c with the SSA.

Step 2: Correct the originally issued Forms W-2 by preparing Forms W-2c and Form W-3c as follows:

- Show the correct tax year in box c and/or the correct EIN in box b.
- In the previously reported column, show zero in the money amounts.
- In the corrected amounts column, show the money amounts originally reported.

Give employees a copy of Forms W-2c and file Forms W-2c and W-3c with the SSA.

---

Ten common 2015 Form W-2 errors and how to fix them

Continued
4. Error in the employer address

A Form W-3c is not used to correct an employer’s address on Form W-2. Instead, the employer should file Form 8822-B, Change of Address or Responsible Party-Business, with the IRS. For more information about the Form 8822-B, read our blog. (General Instructions for Forms W-2 and W-3.)

If the only error on the Form W-2 is the employee’s address, the employer has one of three options below for correcting the error, but note that regardless of the choice for correcting this error, a Form W-3c should not be filed with the SSA (unless, of course, you are correcting other errors on the Form W-2).

(1) Give the employee a corrected Form W-2 with “reissued statement” printed on it

(2) Mail the original Form W-2 to the employee’s correct address

(3) Issue a Form W-2c showing the correct address and all other correct information

5. Error in withholding federal income tax or Additional Medicare Tax

The IRS does not allow for corrections in the reporting of federal income tax or Additional Medicare Tax withheld on Form W-2 unless the correction is “administrative.”

As explained in the Form 941-X reporting instructions, “You may correct federal income tax and Additional Medicare Tax withholding errors for prior years if the amounts shown on Form 941 do not agree with the amounts you actually withheld, that is, an administrative error.”

It is the intention of the IRS that an employee not be allowed to have federal income tax or Additional Medicare Tax withheld from current wages for the purpose of correcting under- or overwithholding in a previous year. (Form 941-X instructions.)

Example 1. Employee Mark discovers in January 2016 that his federal income tax withholding in 2015 was $500 less than his 2015 federal income tax liability. To avoid any penalty arising from the income tax withholding shortage, Mark requests that the employer withhold an additional $500 from wages paid in 2016 and show the additional $500 on a 2015 Form W-2c as federal income tax withholding for 2015. In this example, the federal income tax withholding correction is not an administrative error, and a Form W-2c correcting box 2 (federal income tax withholding) is not allowed. The $500 additional federal income tax withheld in 2016 must be applied to the 2016 Form W-2.

An exception to this rule applies if the employer had a contractual agreement with the employee that it would pay the federal income tax and/or Additional Medicare Tax withholding required of the employee. In instances where a “gross-up” agreement is in place, filing a Form W-2c to reflect the increase in federal income tax withholding may be allowed.
Example 2. In January 2016, Joan's employer discovered that it neglected to report on the 2015 Form W-2 imputed income of $350 attributable to her personal use of a company vehicle in 2015. Joan's employment agreement stipulates that her employer will pay any federal income tax that is required to be withheld on this fringe benefit. Joan's employer may issue a Form W-2c for 2015 reflecting both the gross-up on the wages and the federal income tax withholding it paid on her behalf.

In the facts outlined in Example 2, the employer intended to pay the employee's federal income tax withholding liability on the value of the vehicle use. (The employer agreement to pay an employee's taxes should be in a written document that was in force prior to or at the time of receiving the taxable benefit or wage payment.)

In this case, the additional amount of federal income tax withholding that is the result of the gross-up calculation does not represent an “amount withheld” from the employee's wages, but rather an amount the employer failed to report and deposit. Therefore, the adjusted federal income tax withholding shown on the Form W-2c would more likely than not be considered an administrative error and would be allowed.

---

6. Box 13 “retirement plan” indicator checked in error

Incorrectly checking the “retirement plan” indicator on Form W-2, box 13, can cause the employee to receive notices from the IRS and other taxing authorities about potential additional tax assessments. That is why it is vital for employers to fix this error immediately, particularly if employees have brought this error to their attention.

Form W-3c, box 13, is used for this purpose. If you checked the box and should not have, check box 13, “retirement plan,” in the previously reported column of Form W-2c and leave it blank in the corrected amounts column. (General Instructions for Forms W-2 and W-3.)

The chart below provides an overview of the circumstances under which box 13, “retirement plan,” is checked.

**Should the ‘retirement plan’ box on Form W-2 be checked?**

<table>
<thead>
<tr>
<th>Type of retirement plan</th>
<th>Employee conditions</th>
<th>Should you check the “retirement plan” box?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defined benefit plan (for example, a traditional pension plan)</td>
<td>Employee qualifies for employer funding into the plan, due to age/years of service – even though the employee may not be vested or ever collect benefits.</td>
<td>Yes</td>
</tr>
<tr>
<td>Defined contribution plan (for example, a 401(k) or 403(b) plan, a Roth 401(k) or 403(b) account, but not a 457 plan)</td>
<td>Employee is eligible to contribute but does not elect to contribute any money in this tax year.</td>
<td>No</td>
</tr>
<tr>
<td>Defined contribution plan (for example, a 401(k) or 403(b) plan, a Roth 401(k) or 403(b) account, but not a 457 plan)</td>
<td>Employee is eligible to contribute and elects to contribute money in this tax year.</td>
<td>Yes</td>
</tr>
<tr>
<td>Defined contribution plan (for example, a 401(k) or 403(b) plan, a Roth 401(k) or 403(b) account, but not a 457 plan)</td>
<td>Employee is eligible to contribute but does not elect to contribute any money in this tax year, but the employer does contribute funds.</td>
<td>Yes</td>
</tr>
<tr>
<td>Defined contribution plan (for example, a 401(k) or 403(b) plan, a Roth 401(k) or 403(b) account, but not a 457 plan)</td>
<td>Employee has contributed in past years but not during the current tax year under report.</td>
<td>No (even if the account value grows due to gains in the investments)</td>
</tr>
<tr>
<td>Profit-sharing plan</td>
<td>Plan includes a grace period after the close of the plan year when profit sharing can be added to the participant’s account.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
7. Amounts vested in nonqualified deferred compensation plan not included in Social Security and Medicare taxable wages

Under the special-timing rule, nonqualified deferred compensation can be included in Social Security and Medicare wages at the time there was no longer a risk of forfeiture (at vesting). Treas. Reg. §31.3121(v)(2)-1(d)(1)(ii) states that if an amount deferred for a period is not taken into account for FICA purposes at the time of vesting, the non-duplication rule of IRC §3121(v)(2) and Treas. Reg. §31.3121(v)(2)-1(a)(2)(iii) will not apply and, instead, the benefits attributable to the amount deferred are included as wages subject to FICA taxes in accordance with the “general timing” rule (i.e., when the amounts are distributed to the employee).

Accordingly, a Form W-2c could be issued for each of the open tax years (years 2012 through 2015) that reflects in Social Security and Medicare wages and tax the deferrals that vested in each of the years. Because years before 2012 are now outside the statute of limitations, the FICA wages and taxes owed will be determined in the year(s) of distribution. Note that the statute of limitations for tax year 2012 ends on April 18, 2016 (April 15 is a federal holiday). (IRS Publication 509.)

• Pay attention to box 11. Keep in mind that errors in reporting nonqualified deferred compensation in Form W-2, box 11, must also be corrected. The proper reporting of nonqualified deferred compensation in box 11 of the Form W-2 helps individuals who have reached or will reach early-retirement age to potentially avoid difficulties with the SSA regarding their Social Security benefits.

For Form W-2 reporting purposes, wages are reported in the year paid, not the year earned. For purposes of the Social Security earnings test, wages are taken into account in the year they are earned (and not the year paid).

To proactively account for these timing differences, the SSA and IRS require that certain nonqualified deferred compensation contributions and distributions be reported in box 11. Accurate box 11 reporting is important not only to employees who are at or near retirement age, but also to employers, as penalties can be assessed for failure to report amounts accurately.

For more information on the reporting of nonqualified deferred compensation, see Publication 957, Reporting Back Pay and Special Wage Payments to the Social Security Administration. (Instructions for Forms W-2 and W-3 (rev. January 2015).) Note that other special wage payments (wages related to services performed in a prior year) are reportable on Form SSA-131, Employer Report of Special Wage Payments.

8. Excess contributions were made in 2015 to an employee’s Health Savings Account (HSA)

If contributions are erroneously made to an employee’s HSA that exceed the maximum annual contribution allowed in IRC §223(b), the employer may correct the error in one of two ways. (IRS Notice 2008-59.)

(1) The employer may request that the financial institution return the excess amount to the employer. If applicable, the employer refunds the excess contribution to the employee. The employer issues a Form W-2c showing a corresponding reduction in the amount reported in box 12, Code W.

Form W-2, boxes 1, 3 and 5, should not reflect the excess contribution refunded to the employee. Accordingly, a Form W-2c may be necessary and a FICA refund may be owed the employee and employer.

(2) The employer may choose not to recover the excess contributions. In that case, the excess contributions must be reflected on Form W-2, boxes 1, 3 and 5. If the excess amounts were not properly included on Form W-2, a Form W-2c will be necessary.

If an increase is made to Form W-2c, boxes 1, 3 and 5, the employer is liable for any Social Security and Medicare tax it failed to withhold and pay on this amount. The employer is also liable for any federal income tax and Additional Medicare Tax it failed to withhold. The liability for federal income and Additional Medicare Tax can be abated (but not the penalties) by obtaining Form 4669 from the employee.

• For the annual limits that applied to Health Savings Accounts in 2015, see our report here.

• For more information about Health Savings Accounts, health flexible spending accounts and other medical reimbursement accounts, see our special report here.
Ten common 2015 Form W-2 errors and how to fix them

Continued

9. Excess pretax contributions were made in 2015 to an employee's health flexible spending account (FSA)

For 2015, an employee's annual pretax contributions to a health flexible spending account (FSA) are limited to $2,550. (Rev. Proc. 2014-61.) If an employee's annual pretax contribution exceeded $2,550 in 2015, the excess should be reflected in Form W-2c, boxes 1, 3 and 5.

The employer is liable for any Social Security and Medicare tax it failed to withhold and pay on this amount. The employer is also liable for any federal income tax and Additional Medicare Tax it failed to withhold. The liability for the federal income and Additional Medicare Tax can be abated (but not the penalties) by obtaining Form 4669 from the employee.

• For the rates and limits that applied in 2015, see our report here.

• For more information about Health Savings Accounts, health flexible spending accounts and other medical reimbursement accounts, see our special report here.

10. An incorrect amount was reported in box 12, Code DD (aggregate value of employer-sponsored health coverage)

Employers most frequently debate the need for a Form W-2c when the only correction involves errors in box 12 that have no clear consequence to employees or impact on other payroll tax returns. The need to correct box 12, Code DD, is an example of this type of error.

The IRS has clarified that if the employer provided health insurance to employees and failed to include the value in box 12, Code DD (applicable to employers that filed 250 or more Forms W-2 in 2014), or if the employer reported the incorrect amount, a Form W-2c is required. It makes no difference that the employee won't rely on this information.

Under IRC §6721 and §6722, penalties can be imposed for incorrect reporting in box 12, Code DD, of $260 per Form W-2 (for Copy A and Copy C) up to a maximum of $3,193,000 per tax year. (See page 9 for more information on Form W-2 reporting penalties.)

For more information on the Form W-2 reporting of the value of employer-sponsored health coverage, see the IRS website here.

Watch this! Form W-2 reporting in box 12, Code DD, should not be confused with the new information reporting requirements of the Affordable Care Act that apply beginning in tax year 2015 (filed in 2016). The Form W-2 and ACA reporting requirements are separate filing obligations. The new series of Forms 1094 and 1095 are subject to the same penalties as Forms W-2.
2015 Form W-2c facts

How long does an employer have to correct an error on a Form W-2?
Employers are required to correct errors on Forms W-2 as quickly as possible. The penalty for filing an incorrect W-2 with the SSA increases over time. See the next section.

What is the penalty for filing a late or incorrect Form W-2?
- $50 per Form W-2 if you correctly file within 30 days of the due date (April 30, 2016, if you filed electronically); maximum penalty of $532,000 ($186,000 for small businesses)
- $100 per Form W-2 if you correctly file more than 30 days after the due date but by August 1, 2016; maximum penalty of $1,596,500 per year ($532,000 for small businesses)
- $260 per Form W-2 if you file after August 1, 2016, or you do not file required Forms W-2; maximum penalty of $3,193,000 per year ($1,064,000 for small businesses)

The penalty for providing an incorrect W-2 to the employee is $260 per incorrect Form W-2, to a maximum of $3,193,000 per year ($1,064,000 for small businesses).

Note that after August 1, 2016, the correction will be considered to have been filed in a timely manner if made within 30 days of (1) discovering the failure or (2) removing the impediment to correcting the failure. (IRC §6721(b); IRC 6721(d); IRC §6722; General Instructions for Forms W-2 and W-3, rev. January 2016.)

Is the employer required to compensate employees for tax preparation and other costs incurred as a result of receiving a Form W-2c?
The IRS does not require employers to reimburse employees for direct or indirect expenses they incurred as a result of incorrect Form W-2 reporting. This is not to say that employees don’t have other avenues for seeking financial restitution. In fact, case law shows that some employees have successfully brought suit against their employers for these kinds of damages. (Clemens v. Revlon, Inc., 838 F.2d 1389 (5 Cir. 1988).)

In addition, the Internal Revenue Code makes a provision for civil damages for “any person who willfully files a fraudulent information return with respect to payments purported to have been made to another person.” The maximum award of damages under this provision is the greater of (1) $5,000 or (2) the amount of actual damages (including the costs of the action) and, in the court’s discretion, reasonable attorneys’ fees. (IRC §7434.)

The most compelling reason to consider reimbursing employees’ direct costs for Form W-2 reporting errors is good employee relations. In an effort to keep employees content and productive, some employers reimburse their employees for direct costs they incur as a result of receiving a Form W-2c (e.g., the cost of filing amended federal, state and local tax returns). Generally, such reimbursement is made only when employees are given a Form W-2c after they filed their original federal, state and local income tax returns.

Tip to clip.
Employee reimbursement for expenses, such as tax preparation fees, is considered wages subject to federal employment tax and withholding (state and local taxes may also apply) in the tax year when the reimbursement is made.

2015 Form W-2c facts
- All consequential Form W-2 errors must be corrected, including informational boxes 10, 11, 12 and 13.
- For tax year 2015, there is no de minimis threshold at which a Form W-2c is not required. No matter how small the dollar amount of the error, it must be corrected. (A limited de minimis exception applies beginning in tax year 2016, filed in 2017.)
- Penalties for an incorrect Form W-2 (employee and SSA copy) can be as high as $260 with a maximum annual penalty of $3,193,000.
- Employers are not required to reimburse employees for tax preparation or other related costs they incur as a result of receiving a Form W-2c. However, a minimum $5,000 civil penalty could apply if employees tell you the Form W-2 is wrong and you don’t fix it.
- The IRS will generally enforce a statute of limitations for filing a Form W-2c of three years.
- To avoid penalties, a Form W-2c is generally required within 30 days after you become aware of an error.
- Be mindful of employee privacy when issuing replacement Forms W-2 or W-2c.
- Changes in the money amounts on Form W-2 may also require corrections to other payroll tax returns (e.g., Form 941, Form 940, state unemployment insurance returns).
What are the procedures for issuing a replacement Form W-2?

Employers can reissue a Form W-2 using either the IRS official form or an acceptable substitute that meets the requirements published in IRS Publication 1141, General Rules and Specifications for Substitute Forms W-2 and W-3.

If you are furnishing the employee with a paper replacement of Form W-2 (or Form W-2c), it must be labeled “REISSUED STATEMENT.” You do not have to add “REISSUED STATEMENT” on Forms W-2 that are provided to employees electronically.

Do not file Copy A of a reissued Form W-2 with the SSA.

For more information on electronic storage and access to Form W-2 data, see IRS REG-107186-00, 66 F.R. 10247, and T.D. 8942, 66 F.R. 10191. (General Instructions for Forms W-2 and W-3, rev. January 2016.)

- **Deadlines for issuing replacement forms.** The deadline for providing federal Forms W-2 to employees (February 1, 2016, for tax year 2015) applies only to the original issuance. The IRS doesn’t specify a period in which lost W-2s must be replaced. While employers should be sensitive to employees’ federal, state and local tax filing deadlines, there is generally no need to issue replacement forms on demand.

  **Tip to clip.** To eliminate daily interruptions caused by responding to requests for duplicate W-2s and to make the process more efficient, some payroll departments designate a specific time each week for issuing replacement forms. Some employers schedule temporary help to assist in the preparation and distribution of replacement forms. Electronic delivery of Forms W-2, where permitted, can significantly reduce the time and effort involved in replacing lost forms.

- **Keep privacy rights in mind.** In the effort to respond to employee requests for replacement Forms W-2, don't throw caution to the wind. The Form W-2 contains confidential information about the employee's earnings. It's the employer's responsibility to take reasonable steps to ensure that copies of Forms W-2 don't wind up in the wrong hands. An employer can show that a reasonable effort was made to maintain the confidentiality of Form W-2 information by using such delivery methods as a secure email system, confidential intercompany mail, the U.S. Postal Service or other reliable delivery service to an address provided by the employee through some form of written or PIN-verified request. It is not a prudent practice to accept phone requests for duplicate Forms W-2, particularly when the request involves sending the form to a location other than the employee's address of record.

  **Tip to clip.** To streamline the processing of replacement Forms W-2 (or Forms W-2c) and to protect confidentiality, some employers require that employees complete and sign a request form. The request form includes mailing instructions and a signature area for the employee. Written requests can be processed in date-received order and can also function as essential documentation of the employer's reasonable effort to protect the confidentiality of the Form W-2 information. A sample request form appears on page 12.
Other payroll returns affected by Form W-2c

Do I need to file any other returns when correcting the Form W-2?

The wage and tax information reported on Form W-2 is reconciled to other federal, state and local returns, meaning that a difference in the amount of wages or taxes reported on Forms W-2 and Forms 941 and 944 for the tax year could result in IRS notices – even penalty assessments. Similarly, an unexplained difference between federal taxable wages reported to the IRS and to state and local taxing authorities can create audit adjustments that could have monetary consequences (e.g., penalty and interest). For these reasons, it is imperative that employers take the following steps when preparing Forms W-2c:

• Store in a “batch file” of all Forms W-2c furnished to employees
• Establish a regular schedule (e.g., monthly) for filing the Form W-2c “batch”
• When preparing to file the W-2c batch, review the following matrix to determine other payroll tax returns that may be affected

Form W-2c related-return checklist: other returns that may be required

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Box 1: Federal taxable wages</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Box 2: Federal income tax withheld</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Box 3: Social Security wages</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Box 4: Social Security tax withheld</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Box 5: Medicare taxable wages</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Box 6: Medicare tax withheld</td>
<td>✓</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Box 7: Social Security tips</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Sample employee request for a replacement Form W-2

Employee request for replacement Form W-2

I am requesting a replacement Form W-2 for tax year _______.

Personal data
Employee name: ____________________________________________________________
(Print name)

Social Security Number: __ __ __- __ __- __ __ __ __

Phone: (     ) ________________________________

Mailing address
Street: _________________________________________________________________

City, State, ZIP: __________________________________________________________

Method of delivery

____ company email ____ first-class mail ____ pick up ____ intercompany mail

Employee signature _________________________________ Date: ___________________
(Sign here)

For office use only

Date request received: _____________________________________________________
(Month) (Day) (Year)

Date replacement provided: ______________________________________________
(Month) (Day) (Year)

Replacement prepared by: ________________________________________________
(Print name)

Copy 1 – Payroll, Copy 2 – Human Resources, Copy 3 – Employee’s copy
IRS offers easy fix for 2015 retroactive increase in transit benefits

In January 2016, the IRS issued guidance in Notice 2016-06 that gave employers a simplified process for adjusting 2015 wages and taxes pursuant to the retroactive increase in the monthly transit/commuter vanpool benefit from $130 to $250.

This administrative relief is available only to employers that took certain steps before February 1, 2016 (or the extended due date of February 10) for filing the 2015 fourth-quarter Form 941.

Employers that missed these key deadlines will be subject to the normal correction procedures, which require obtaining the Social Security/Medicare (FICA) written consent letters from employees and the filing of Forms 941-X and Forms W-2c.

Using either the special rules or the normal procedure, employers must reflect any applicable reduction in wages on the 2015 Form W-2 (or Form W-2c) that is the result of the change in the monthly transit benefit amount. The IRS also expects that employers will refund to employees any related overpayment of Social Security and Medicare tax.

Background

Under the Consolidated Appropriations Act of 2016 (Public Law 114-113) enacted on December 18, 2015, the 2015 monthly tax-free benefit for transit and commuter vanpool benefits was increased from $130 to $250, in parity with the monthly benefit for parking benefits in Rev. Proc. 2014-61.

The provision is permanent; therefore, effective January 1, 2016, the monthly limit on transit/vanpool benefits increases to $255, up from the $130 previously announced by the IRS. (Rev. Proc. 2016-14.)

Special procedures

If you did not make corrections by December 31, 2015, but you make them by February 1, 2016 (or the extended deadline of February 10):

- Refund Social Security, Medicare and Additional Medicare Tax to employees on excess transit benefits for all four quarters of 2015. You do not need to obtain written statements from employees confirming that they did not make a claim (or if they did make a claim, that it was rejected) and will not make a claim for refund of FICA tax overcollected in a prior year.

- On the fourth-quarter Form 941 (or equivalent, e.g., CT-1):

  Pursuant to the total 2015 excess transit benefit:

  - Reduce the fourth-quarter wages, tips and compensation reported on Line 2, taxable Social Security wages reported on Line 5a, taxable Medicare wages and tips reported on Line 5c, and taxable wages and tips subject to Additional Medicare Tax withholding reported on Line 5d.

Ernst & Young LLP insights

The IRS has clarified that employers are not required to provide retroactive transit benefits to employees. If the employer provided transit passes of only $130 per month throughout 2015, employees are due no additional cash benefits or transit passes for the year.

Past December 31, 2015, employees are not allowed to make 2015 catch up pretax contributions toward transit benefits. If they made transit pretax contributions of only $130 per month throughout 2015 and they made no after-tax contributions, wage reporting adjustments and FICA tax refunds don't apply.

If employees made after-tax contributions in 2015, these may be reclassified as pretax contributions, bringing the total monthly pretax contribution for 2015 to $250. FICA refunds and wage reporting adjustments would then be handled according to this IRS guidance.

Employees may not reduce their compensation by more than $255 per month in 2016 to receive permissible reimbursement for transit benefits incurred in 2015.

If employees have unused balances in their transit benefit accounts as of December 31, 2015, consider whether those balances may be applied toward 2016 transit expenses (up to $255 per month). Such reimbursements do not affect 2016 taxable wages since they were properly contributed in previous years.
Employment tax reporting

IRS offers easy fix for 2015 retroactive increase in transit benefits

Continued

- Reduce the last liability of the 2015 fourth quarter reported (that is, month 3 on Line 14 or the last liability entry on Schedule B) by the amount of the tax reduction due to using this special administrative procedure. If the amount of the tax reduction exceeds the last liability of the quarter reported on Line 14 or Schedule B, apply the amount of the tax reduction to reduce previous liabilities in reverse order until the amount of the tax reduction is completely used. Note that negative numbers must not be entered on Line 14 or Schedule B.

- On 2015 Form W-2, show the correct amount of wages after the reduction for the excess transit benefit in boxes 1, 3 and 5. Show the correct amount of Social Security tax in box 4 and Medicare and Additional Medicare Tax in box 6. Do not show any change in federal income tax in box 2.

- If you already issued the incorrect Forms W-2 to employees, but you have not filed them with the SSA, reissue a corrected Form W-2, write “corrected” on it and give it to your employees. On the incorrect Form W-2, check the box “void.” Be certain the correct Forms W-2 are filed with the SSA.

- If you already filed Form W-2 with the SSA, prepare Forms W-2c. Give the Forms W-2c to employees and file them with the SSA.

Normal correction procedures if you missed the February 1, 2016 (February 10 extended) Form 941 deadline

- Submit written FICA consent letters to affected employees for the refund due in 2015 on the excess transit benefit. A refund is allowed only for Social Security and Medicare tax. No refund of Additional Medicare Tax is allowed.

- You can either repay employees their overpaid FICA or obtain written consents to file the refund claim on their behalf. On 2015 Form W-2, show the correct amount of wages after the reduction for the excess transit benefit in boxes 1, 3 and 5. Show the correct amount of Social Security tax in box 4 and Medicare tax in box 6. Do not show any changes in box 6 for the Additional Medicare Tax or in box 2 for federal income tax.

For more information about employee written statements, see our special report.

- If you already issued the incorrect Forms W-2 to employees, but you have not filed them with the SSA, reissue a corrected Form W-2, write “corrected” on it and give it to your employees. On the incorrect Form W-2, check the box “void.” Be certain the correct Forms W-2 are filed with the SSA.

- If you already filed Form W-2 with the SSA, prepare Forms W-2c. Give the Forms W-2c to employees and file them with the SSA.

- Complete Form 941-X for each affected quarter in 2015 pursuant to the total 2015 excess transit benefit.

- Show the correction to wages on Lines 2, 5a and 5c. Note that on Line 5c, no adjustment may be shown for Additional Medicare Tax.

- Following the Form 941-X instructions, claim a refund or abatement for the employer portion of FICA on the excess transit benefit and for the employee portion to the extent you have refunded the amounts to employees.
Work Opportunity Tax Credit guidance released to states

The U.S. Department of Labor, Employment and Training Administration (ETA), has issued guidance to state workforce agencies (SWAs) on the processing of Work Opportunity Tax Credit (WOTC) applications now that the program is retroactively extended to January 1, 2015. The ETA’s guidance expresses the understanding that the IRS is considering transition relief for the 28-day certification requirement for calendar year 2015, as it has for past retroactive extensions of the WOTC.

WOTC retroactively extended through 2019

Under the Consolidated Appropriations Act of 2016 (Public Law 114-113) enacted on December 18, 2015, the WOTC is retroactively reinstated for five years, from January 1, 2015, through December 31, 2019.

The law also modifies the WOTC credit beginning in 2016 to apply to employers that hire qualified long-term unemployed individuals (i.e., those who have been unemployed for 27 weeks or more) and increases the credit with respect to such long-term unemployed individuals to 40% of the first $6,000 of wages.

ETA instructs SWAs to process applications during guidance gap

In the near future, the ETA, in conjunction with the IRS, plans to issue formal guidance to SWAs that includes the new Long-term Unemployment Recipient target group. Until then, SWAs are instructed to process all timely filed certification requests from employers during the 2015 authorization lapse and issue all 2015 final determinations that were held pending the retroactive extension.

SWAs are instructed to continue to process employers’ timely filed certification requests using the current forms for individuals within all the reauthorized target groups. However, until the ETA and IRS modify Forms 9061/9062 and 8850 to include the new Long-term Unemployment Recipient target group, the ETA says that SWAs should encourage employers and their representatives to postpone certification requests for the new target group until the revised forms are available.

Note: According to the ETA, to ensure receipt of the credit, employers may choose to file Forms 9061/9062 (showing an expiration date of August 31, 2018) that indicate “Long-term unemployment recipient” in the top margin, right corner, under the expiration date. SWAs are instructed to accept employer applications for the new target group using the current ETA Forms 9061 or 9062, but postpone processing these certification requests until the ETA issues additional guidance.

IRS may extend deadline for 2015 certification requests not filed during hiatus

In the interim guidance, the ETA reminds SWAs that the IRS has in the past provided transition relief for the 28-day certification requirement when a retroactive WOTC extension has been approved. The ETA states that it understands that the IRS is considering offering similar relief on the current retroactive extension.

A few states have already provided updated guidance on the WOTC extension. For example, the Texas Workforce Commission states that employers may file current Forms 9061/9062 indicating “Long-term unemployment recipient” in the top margin, right corner, underneath the expiration date. The New York Department of Labor asks that employers not resubmit applications filed in 2015.

Ernst & Young LLP insights

The WOTC was thankfully extended to December 31, 2019, relieving employers of the complications of retroactive reinstatement for the next four years. In the meantime, the Obama Administration and some lawmakers are seeking to make the WOTC permanent.
President proposes national wage insurance and other unemployment reforms

Building on the momentum from his final State of the Union, President Barack Obama is now following through on his promise to rally for a progressive agenda throughout his last year in office.

In his weekly address of January 16, 2016, the President unveiled his plan to “modernize” the unemployment insurance system “to help more hardworking Americans get unemployment insurance, find a new job and have some assurance that even if a new job pays less than their old one, they will have some help paying the bills.”

Wage insurance for low-income displaced workers

The most significant of the Administration’s new proposals is a wage insurance that would be available to displaced workers making less than $50,000. Provided these employees remained with their previous employer for at least three years prior to displacement, they would be eligible for replacement wages up to $10,000 over two years.

The wage insurance would theoretically bridge the income gap that often occurs when laid-off workers are forced to take new jobs with lower pay.

The White House Fact Sheet states that this new benefit would be fully funded through the President’s broader fiscal year 2017 budget.

Mandate maximum 26 weeks of state unemployment insurance benefits

The President proposes to reverse what he terms the “damaging erosion of state unemployment benefit duration” by mandating that states provide at least 26 weeks of coverage to eligible workers.

When state unemployment insurance trust funds reached crisis lows in the throes of the Great Recession, some of them avoided excessive tax increases on businesses by lowering the maximum weeks of workers’ coverage. While historically states have uniformly provided a maximum of 26 benefit weeks, it’s not a federal requirement. Consequently, nine states now set the maximum benefit at less than 26 weeks – in some cases, to just 13 weeks.

The President’s proposal would also create a permanent program of extended UI benefits providing up to 52 additional weeks of federally funded unemployment insurance benefits for states experiencing rapid job losses or high unemployment.

Focus will continue on ensuring healthy state trust funds

In the President’s fiscal year 2016 budget proposal, two provisions were suggested that would force states to maintain larger reserves in their unemployment insurance trust funds.

(1) Raise the federal wage base from $7,000 to $40,000. This would result in an increase in the state unemployment insurance wage base for all states except Hawaii and Washington.

(2) Impose a state unemployment minimum tax of $70 per employee per year, thereby eliminating the possibility of a zero rate that applies in some states, or a rate that would result in employer contributions of less than $70 per year.

Our analysis of the President’s fiscal year 2016 budget is here.
States with less than 26 unemployment insurance benefit weeks

<table>
<thead>
<tr>
<th>State</th>
<th>Benefit Weeks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arkansas</td>
<td>20 weeks</td>
</tr>
<tr>
<td>Florida</td>
<td>13 weeks</td>
</tr>
<tr>
<td>Georgia</td>
<td>13 weeks</td>
</tr>
<tr>
<td>Illinois</td>
<td>25 weeks</td>
</tr>
<tr>
<td>Kansas</td>
<td>From 16 to 26 weeks, depending on the state's unemployment insurance rate</td>
</tr>
<tr>
<td>Michigan</td>
<td>20 weeks</td>
</tr>
<tr>
<td>Missouri</td>
<td>13 weeks</td>
</tr>
<tr>
<td>North Carolina</td>
<td>Variable based on the unemployment insurance rate</td>
</tr>
<tr>
<td>South Carolina</td>
<td>20 weeks</td>
</tr>
</tbody>
</table>

**Ernst & Young LLP insights**

Should federal law require a state maximum of 26 benefit weeks, employers in the states above can expect increases in their unemployment insurance costs. Additionally, states will not be able to avoid or reduce future employer cost increases by lowering the unemployment insurance payout rate in this manner.

More details on these and other proposals impacting employers will be available in the President’s fiscal year 2017 budget proposal expected early in February.
Increased federal unemployment insurance taxes projected in four jurisdictions

The U.S. Department of Labor (DOL) has released its preliminary projections of the states and territories that have the potential for a federal unemployment insurance (FUTA) credit reduction for calendar year 2016. The Department’s projections include the standard credit reduction and estimated Benefit Cost Ratio (BCR) percentages for 2016.

As it was on December 31, 2015, the DOL projects that employers of California, Connecticut, Ohio and the Virgin Islands will again be subject to the FUTA credit reduction in 2016, resulting in higher FUTA taxes this year than last for most jurisdictions. Connecticut expects to repay its loan balance before November 10, 2016, and if it does, the state will have no 2016 FUTA credit reductions. Ohio anticipates repaying its loan balance in 2017.

These early rate projections could change over the next several months. (Potential 2016 Federal Unemployment Tax Act (FUTA) Credit Reductions, U.S. Department of Labor, Employment and Training Administration, February 4, 2016.)

Higher FUTA taxes due to Benefit Cost Ratio add-on

States that carried a federal UI loan balance since 2008-09 are faced with both the standard FUTA credit reduction and the BCR add-on. Jurisdictions can request a waiver of the BCR no later than July 1, 2016. Last year, all jurisdictions, except for Connecticut, requested and received a waiver of the add-on.

The U.S. Department of Labor’s projections of the standard FUTA credit reduction and BCR add-on rate for each of the states are shown in the chart on the following page.

For more information about the FUTA credit reduction, see our special report.

For the FUTA credit reduction states in 2015, see our rates and limits facts.

### 2016 projected FUTA credit reduction states and rates

<table>
<thead>
<tr>
<th>State</th>
<th>First year of loan</th>
<th>2015 FUTA credit reduction</th>
<th>Net 2015 FUTA rate</th>
<th>Projected 2016 FUTA credit reduction</th>
<th>Projected 2016 BCR add-on</th>
<th>Projected potential 2016 net FUTA rate</th>
<th>Total estimated 2016 FUTA cost in excess of the standard $42 per employee</th>
</tr>
</thead>
<tbody>
<tr>
<td>California</td>
<td>2009</td>
<td>1.5%</td>
<td>2.1%</td>
<td>1.8%</td>
<td>0.4%</td>
<td>2.8%†</td>
<td>$154</td>
</tr>
<tr>
<td>Connecticut</td>
<td>2009</td>
<td>2.1%</td>
<td>2.7%</td>
<td>1.8%</td>
<td>0.1%</td>
<td>2.5%†</td>
<td>$133</td>
</tr>
<tr>
<td>Ohio</td>
<td>2009</td>
<td>1.5%</td>
<td>2.1%</td>
<td>1.8%</td>
<td>0.3%</td>
<td>2.7%†</td>
<td>$147</td>
</tr>
<tr>
<td>Virgin Islands</td>
<td>2009</td>
<td>1.5%</td>
<td>2.1%</td>
<td>1.8%</td>
<td>1.1%</td>
<td>3.5%†</td>
<td>$203</td>
</tr>
</tbody>
</table>

**Legend**

1. Estimated BCR courtesy of U.S. Department of Labor. The 2.7 add-on could apply if BCR add-on is waived; however, the Department does not anticipate this to be the case for 2016.
2. The state plans to repay the loan before November 10, 2016, and avoid the 2016 FUTA credit reduction.
3. The state plans to repay the loan before November 10, 2017, and avoid the 2017 FUTA credit reduction.
**Alaska**

**Governor urges adoption of personal income tax**

In his *State of the State address* on January 21, 2016, Governor Bill Walker unveiled his *New Sustainable Alaska plan*, which would, of significant note, impose a personal income tax of 6% of an individual’s federal income tax. The tax would be effective January 1, 2017. (*H.B. 250.*)

The Governor directed lawmakers to act on the plan by the end of the year.

Walker explained that plummeting oil prices and a lack of adequate diversity in the state’s economy have resulted in a 90% decline in revenues and a projected depletion in the state’s savings within three years.

While the Governor expressed his flexibility in arriving at a sustainable budget with lawmakers, he pointed out that, unlike a sales tax, the proposed personal income tax can be fairly shared both by residents and nonresidents who only work in Alaska.

Alaska is one of nine states that do not impose a personal income tax on wages.

A copy of H.B. 250 is available [here](#).

---

**Arizona**

**2016 SUI tax rates to increase, wage base unchanged; two options to lower 2016 rates**

The 2016 Arizona state unemployment insurance (SUI) tax rates range from 0.03% to 8.91%. Though the minimum rate remained the same as for 2015, rates within the table increased from 2015 by as much as 0.56% for positive-rated employers and 1.12% for negative-balanced employers. The 2016 new employer rate continues at 2.0%. (*Unemployment insurance tax rates, updated January 2016.*)

- **Job Training Tax (JTT) repealed.** As we reported in the November 2015 issue of *Payroll Perspectives*, the 0.1% JTT, in effect since 2001 and formerly charged to most positive-balanced employers, was repealed as part of the fiscal year 2016 budget bill, effective January 1, 2016.

- **Shared work program.** An employer that participates in the shared work program with a ratio of -15% or more will be assigned an additional 2.0% surcharge. A shared work employer with a ratio of -5% to -14.99% will be assigned an additional 1.0% surcharge. (*Form UB-400, shared work application, Arizona Department of Economic Security, September 2015.*)

**2016 wage base**

The SUI taxable wage base continues at $7,000 for 2016.

**Mailing of 2016 rate notice**

The Arizona Department of Economic Security mailed the 2016 SUI tax rate notices to employers on December 30, 2015. (*Telephone conversation, representative, experience rating unit, Arizona Department of Economic Security, January 6, 2016.*)
Two options to potentially reduce 2016 tax rates

Experience-rated employers may reduce their 2016 SUI tax rates in two ways:

(1) **Voluntary contributions**

Experience-rated employers may make a voluntary contribution to reduce their assigned SUI tax rate. The voluntary payment increases the amount of the employer’s reserve account and thereby may reduce the employer’s state unemployment tax rate.

(2) **Joint accounts**

Joint accounts may be formed in Arizona only if the employing entities are commonly owned. With a joint account, the unemployment experience of two or more Arizona employers is combined to obtain a single SUI tax rate. The members of a joint account with a favorable employment history can share their unemployment insurance reserves with other members of the joint account, effectuating an overall reduction in state unemployment taxes. In a large corporate organization, not all members need to be included in the joint account election. Instead, entities may be included in the common rate group based on the overall desired SUI tax rate results. Newly formed joint accounts must participate in the joint account for at least two years.

- **No corporate restructuring necessary**

  The joint account election offers an above-the-line tax benefit that does not require a change in the corporate structure. Each entity continues to file separate SUI returns after the joint account is established.

  Joint accounts and voluntary contributions may mitigate some of the anticipated tax increases due to the current economic conditions. Employers may combine a joint account election and voluntary contribution for an increased overall benefit.

- **Businesses must act quickly**

  To achieve the benefit of a voluntary contribution, the payment must have been mailed (postmarked) to the Arizona Department of Employment Security, Experience Rating Unit, 911-B, P.O. Box 6028, Phoenix, AZ 85005 by **February 1, 2016**. To achieve the benefit of a joint account election, an application must be mailed (postmarked) to the same address by **February 29, 2016**, to be applicable for the 2016 tax year. **(Telephone conversation, representative, experience rating unit, Arizona Department of Employment Security.)**

Not all voluntary contributions and joint accounts are advantageous – a careful analysis of a company’s specific unemployment facts is vital to determining whether to pursue the joint account election and/or a voluntary contribution.

**Repeal of JTT also affected SUI tax payments**

As we reported previously, the repeal of the section of UI law that provided for the JTT also resulted in the removal of the provision that allowed employers owing less than $10 in quarterly SUI taxes to avoid paying the SUI taxes for the quarter.

As a result, effective January 1, 2016 (applying to the first quarter 2016, due April 30, 2016), even if the total SUI tax owed for a quarter is less than $10, employers are required to submit the payment. **(Employer newsletter; email response to inquiry.)**
District of Columbia

2016 income tax withholding guide released; 2015 Form W-2 filing reminders

The District of Columbia’s Office of Tax and Revenue (OTR) released the 2016 Publication FR-230, Income Tax Withholding Instructions and Tables.

Legislative changes in 2014 to affect withholding for years to come

As we previously reported, on May 29, 2014, the Council of the District of Columbia passed the fiscal year 2015 budget, which includes the largest tax overhaul in 15 years. Over five years starting in 2015, individual income taxes are lowered gradually for every taxpayer earning up to $1 million per year.

Supplemental rate of income tax withholding

The District of Columbia makes no provision for a supplemental rate of income tax withholding.

Withholding rules for distributions from retirement plans

Effective for distributions paid on or after January 1, 2012, payers of distributions from retirement plans or accounts are required to withhold District of Columbia income tax at the highest income tax rate in effect as of the date of distribution.

For 2016, the District will continue to require withholding at the highest state income tax rate of 8.95% on distributions from retirement accounts or retirement plans.

The terms “retirement account” or “retirement plan” mean:

a. A qualified employee plan
b. A qualified employee annuity plan
c. A defined contribution plan
d. A tax-sheltered annuity plan
e. An individual retirement account
f. Any combination of the plans and accounts listed in a through e
g. Any similarly situated plan as defined by the Internal Revenue Code

District of Columbia income tax withholding percentage method – annual table

<table>
<thead>
<tr>
<th>District of Columbia</th>
<th>Wages paid on and after January 1, 2016</th>
<th>For single persons/married filing separately/domestic partners filing separately</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over</td>
<td>But not over</td>
<td>Withholding + percent</td>
</tr>
<tr>
<td>$ 0.00</td>
<td>$ 10,000.00</td>
<td>$ 0.00 + 4.00%</td>
</tr>
<tr>
<td>$ 10,000.00</td>
<td>$ 40,000.00</td>
<td>$ 400.00 + 6.00%</td>
</tr>
<tr>
<td>$ 40,000.00</td>
<td>$ 60,000.00</td>
<td>$ 2,200.00 + 6.50%</td>
</tr>
<tr>
<td>$ 60,000.00</td>
<td>$ 350,000.00</td>
<td>$ 3,500.00 + 8.50%</td>
</tr>
<tr>
<td>$ 350,000.00</td>
<td>$ 1,000,000.00</td>
<td>$ 28,150.00 + 8.75%</td>
</tr>
<tr>
<td>$ 1,000,000.00</td>
<td>And over</td>
<td>$ 85,025.50 + 8.95%</td>
</tr>
</tbody>
</table>

The annual amount for each withholding allowance is $1,775.
Georgia

2016 SUI rate schedule and taxable wage base unchanged

The 2016 Georgia state unemployment insurance (SUI) tax rates continue to range from 0.04% to 8.1%. The new employer rate continues at 2.7% for calendar year 2016. Employers continue to pay a 0.08% administrative surcharge that is not credited to their accounts for rating purposes or for FUTA purposes.

2016 unemployment insurance wage base

The 2016 Georgia SUI taxable wage base remains at $9,500.

Mailing of 2016 rate notice

The Georgia Department of Labor mailed SUI tax rate notices reflecting a January 4, 2016, mailing date to employers on December 31, 2015. (Email response to inquiry, Georgia Department of Labor, Adjudication Section, January 20, 2016.)

Voluntary contributions could lower your 2016 SUI rate

An experience-rated, nondelinquent employer has 30 days following the mailing date on the rate notice to make a voluntary contribution to reduce its assigned 2016 SUI tax rate. The voluntary contribution deadline for 2016 was February 4, 2016.

Employers that were eligible to make a voluntary contribution received a voluntary contribution letter with their 2016 tax rate notice. The letter explains the employers' voluntary contribution options and the possible savings in SUI taxes for the year if they elect to participate. Voluntary contributions must be paid by certified check or money order. (Employer handbook.)

Before making a voluntary contribution, you should determine whether the additional payment will result in a potential future tax reduction. Under §34-8-178 of Georgia Employment Security Law, voluntary contributions when accepted from an employer may not be refunded in whole or in part.

Hawaii

2016 SUI tax rates decreased; taxable wage base increased

The Hawaii Department of Labor and Industrial Relations announced that the state unemployment insurance (SUI) tax rates for 2016 will drop by an average of 26%, resulting in an estimated $50 million savings, or $100 less per employee on average for 2016. The annual average SUI taxes per employee have fallen from $910 in 2013 to an estimated $300 in 2016. (News release.)

Tax rate schedule moves down one column for 2016

The 2016 Hawaii SUI tax rates range from 0.0% to 5.6% on Rate Schedule C, down from the 2015 Rate Schedule D by as much as 1.0%, depending on the rate bracket. New employers pay at 2.4% for 2016, down from 3.0% for 2015. Hawaii employers continue to pay an Employment & Training Assessment for 2016 at a rate of 0.01%. (Hawaii Department of Labor and Industrial Relations website.)

2016 SUI wage base

The 2016 Hawaii SUI taxable wage base increased to $42,200, up from $40,900 for 2015.

Mailing of SUI rate notices

The Department typically mails individual SUI tax rate notices to employers during March. For more information, contact the Department at +1 808 586 8913 or see the Department’s website.
Illinois

2016 SUI tax rates decreased; taxable wage base unchanged

The 2016 Illinois state unemployment insurance (SUI) tax rates range from 0.55% to 7.75%, a decrease for employers rated higher than the minimum rate. The 2015 SUI tax rates ranged from 0.55% to 8.15%. The 2016 Illinois SUI tax rates decreased because the State Experience Factor used to calculate the 2016 tax rates is 112%, down from 118% for 2015. The 2016 SUI tax rates continue to include a 0.55% Fund Building Rate. (Illinois Department of Employment Security website, December 2015.)

Most new employers pay at 3.55% for 2016, down from 3.75% for 2015. For 2016, new construction employers (NAICS sector 23) pay at 4.15%, and new administration support and waste management employers (NAICS sector 56) at 3.75%.

A chart of historical rates is here.

Many new employers assigned erroneously higher tax rates in past years

As we reported in the December 2015 issue of Payroll Perspectives, the Illinois Department of Employment Security discovered program errors that incorrectly increased the average industry tax rates for 2013 through 2015 for new employers. The error affected only the industry classes administrative support/waste management, construction, company management, manufacturing, mining, information, transportation/warehousing and unclassified.

Some employers that should have been subject to the standard new employer rate were assigned a higher rate based on an incorrect industry average. In other instances, although the employer should have been assessed at the average rate for its industry, the rate initially assigned for the industry was too high.

Employers that paid SUI taxes at the incorrect rates were credited for their overpayments and may use the credits against future quarterly contributions. The Department will correct the billing rates for any new employers that register in the future.

For more information, see the Department’s website.

2016 taxable wage base

The SUI taxable wage base for 2016 remains at $12,960.

Indiana

2016 SUI rates down; wage base unchanged

The 2016 total Indiana state unemployment insurance (SUI) tax rates range from 0.505% to 7.474%, a decrease from the 2015 range of 0.51% to 7.548%.

The SUI tax rates decreased because the solvency surcharge for 2016 is 1% of the base tax rate, down from 2% for 2015.

Because Indiana repaid its federal UI loan earlier this year, the Department of Workforce Development announced that there will be no solvency surcharge in 2017. (Indiana Department of Workforce Development website.)

For 2016, most new employers continue to pay at 2.5% (new government employers at 1.6%). New construction employers pay at 3.51% for 2016 (down from 4.0% for 2015). New employers are exempt from the solvency surcharge.

2016 taxable wage base

The SUI taxable wage base for 2016 remains at $9,500. (Telephone conversation, representative, Indiana Department of Workforce Development.)

2016 rate notice mailing

The Department mailed the 2016 SUI tax rate notices to employers earlier than in the past, on December 14, 2015. As a result, the voluntary contribution deadline fell on January 13, 2016, earlier than in previous years.
2016 interest surcharge

The total SUI tax rates for experience-rated employers include a solvency surcharge used by the Department to build the trust fund balance and pay interest on federal UI loans. New employers are exempt from the surcharge.

The 2016 total SUI tax rates decreased because the solvency surcharge multiplier decreased to 1%, down from the 2015 surcharge rate of 2%. Each employer’s base “premium” SUI tax rate (which continues to range from 0.5% to 7.4%) was multiplied by 1.01 to arrive at the total SUI tax rate for 2016 (i.e., the minimum base premium rate of 0.5% x 1.01 = 0.505%).

Employers do not receive credit in their experience rating accounts for the solvency surcharge amount used to pay interest on the federal loan. By law, once the remaining interest on the repaid federal UI loan is paid by September 30, 2016, each employer’s account will be credited for the remaining amount in proportion to the amount the employer paid for the preceding four quarters. The total SUI tax rate (referred to as the “applied rate”) is shown on the quarterly contribution report as the employer’s SUI tax rate. The applied rate is a combination of the SUI base premium rate and the solvency surcharge.

See a chart of the base “premium” tax rates here.

The surcharge amount used to pay federal interest will not be reported by the state to the federal government as FUTA creditable taxes and should not be used by employers when completing the federal Form 940 worksheet. Additional information on how to compute the uncredited amount should be released by the Department toward the end of 2016. (Telephone conversation, representative, Indiana Department of Workforce Development, December 23, 2015; IC 22-4-10-4.5(c)-(f).)

As reported above, the Department announced via its website that there will not be a solvency surcharge for 2017.

Penalty rate for delinquent employers

An employer may have a 2.0% penalty rate added to its assigned SUI rate if:

- The employer fails to file any required quarterly report within 10 days of the specific date requested by Form 1171 (Merit Rate Delinquency Notice) sent by certified mail.
- The employer fails to pay the premiums, interest and/or penalty charges owed for past quarters within 10 days of the specific date requested on Form 1171 (Merit Rate Delinquency Notice) sent by certified mail.
- The employer fails to pay the premiums, interest and/or penalties charges owed by a predecessor account within 10 days of the specific date requested on Form 1171 (Merit Rate Delinquency Notice) sent by certified mail.

For more information, see the Department’s website.

Indiana’s federal UI loan status

As we reported in the December 2015 issue of Payroll Perspectives, Indiana repaid its federal UI loan in November 2015 (one year earlier than originally planned) through a temporary advance from the state’s general fund. The Department plans to repay the state general fund loan with normal UI tax collections by the end of fiscal year 2016. Repayment of the federal UI loan returned Indiana employers’ FUTA tax rate for calendar year 2015 to the minimum of 0.6%, down from the FUTA rate of 2.4% that would have applied had the loan not been repaid by November 10, 2015.

Indiana started borrowing from the federal government in December 2008. As a result of the state’s failure to repay its loans timely, Indiana employers saw FUTA credit reductions of 0.3% for calendar year 2010, 0.6% for calendar year 2011, 0.9% for calendar year 2012, 1.2% for calendar year 2013 and 1.5% for calendar year 2014.
Michigan

Revised law sets 2016 SUI taxable wage base at $9,000 for entire year

The recently enacted S.B. 500 revises Michigan’s state unemployment insurance (SUI) law by setting the SUI taxable wage base at $9,000 for any calendar year that the SUI trust fund balance exceeds $2.5 billion as of the previous June 30.

Because the change is effective for calendar year 2016, and the SUI trust fund balance was $2,574,276,206 as of June 30, 2015 (as reported on the U.S. Department of Treasury website), the SUI taxable wage base will continue to be $9,000 for the entire calendar year of 2016 for nondelinquent employers.

According to the bill language, for each calendar year, if on June 30 of the preceding year, the UI trust fund balance equals or exceeds $2.5 billion and the Unemployment Insurance Agency (UIA) projects that the balance will remain at or above $2.5 billion for the succeeding calendar quarter, the taxable wage base for the calendar year is reduced to $9,000 for an employer that is not delinquent in the payment of unemployment contributions, penalties or interest. If the UI trust fund balance on June 30 or the UIA projection does not meet these conditions, a $9,500 taxable wage base will apply to all employers for the calendar year.

The UIA has not yet confirmed that the taxable wage base will remain at $9,000 for calendar year 2016, according to the governor’s press release.

Delinquent employers continue to face a higher wage base

Employers must still be paid in full to realize the reduced taxable wage base.

The law change specifies that an employer is delinquent in the payment of unemployment contributions, penalties or interest if the employer has a quarterly unpaid balance of $25 or more, unless one or more of the following applies:

a. The employer has filed a timely protest or appeal of the notice of assessment and the assessment has not become final.

b. Within 45 days after the beginning of the first calendar quarter in which the reduced taxable wage base limit takes effect for nondelinquent employers, all outstanding balances owed to the unemployment agency are paid in full.

c. If the employer is a domestic employer, all applicable contributions, interest and penalties are paid on or before the 25th day following the last day of the calendar quarter or, for employers with a history of delinquency or otherwise at risk of not paying in full, the 25th day following the last day of the month. (House committee summary)

Ernst & Young LLP insights

This is great news for Michigan employers, as it eliminates the uncertainty of what the taxable wage base will be each quarter and the confusion of how to calculate fluctuations in taxable wages.
State news

Missouri

2016 income tax withholding tables released; 2015 Forms W-2 filing reminders

The Missouri Department of Revenue released the 2016 state income tax withholding tables and guide. The annual withholding formula is unchanged from 2015.

The annual standard deduction amounts for 2016 are as follows:

- Single: $6,300 (unchanged)
- Married and spouse works: $6,300 (unchanged)
- Married and spouse does not work (this is determined by the check box on Form MO W-4, Line 2, and is not a separate filing status): $12,600 (unchanged)
- Head of household: $9,300
- The Form MO W-4 allowances: unchanged

For the wage-bracket tables, see the Department's website.

Supplemental wages

The 2016 supplemental rate of income tax withholding continues at 6%.

Form W-2 filing reminders

For calendar year 2015, employers of 250 or more employees are required to file Forms W-2 information on CD or a flash drive along with Form MO W-3, Transmittal of Tax Statements, with the Missouri Department of Revenue.

The deadline to file is February 29, 2016.

Missouri Supreme Court hears arguments to uphold governor’s veto of 2015 law reducing unemployment benefit weeks

As we reported in the November 2015 issue of Payroll Perspectives, during the 2015 Missouri legislature veto session, the Senate overrode the governor’s veto of H.B. 150, which, effective January 1, 2016, reduced unemployment insurance (UI) benefit weeks for unemployed workers and made other changes.

On January 13, 2016, the Missouri Supreme Court heard arguments on the Missouri AFL-CIO’s appeal to overturn the Senate’s actions on H.B. 150.

In the meantime, the Missouri Department of Labor & Industrial Relations recently posted information on its website about the effect H.B. 150 has on UI benefits. Per the Department, beginning January 1, 2016, claimants will be eligible for up to 13 weeks of unemployment benefits pursuant to Section 288.060.5, RSMo. Claimants who filed their initial claims for unemployment benefits before January 1, 2016, will not see a reduction in benefit weeks.

Additionally, severance pay is now reportable and deductible on unemployment benefit claims. Claimants are not eligible to receive benefits during a period covered by employer-paid severance pay for claims effective October 18, 2015, or later.

Finally, the measure allows successor employers under limited circumstances to protest the transfer of experience from the predecessor during a 60-day window that ended December 14, 2015.

History

During its 2015 regular session, the legislature passed H.B. 150, making changes to the state’s Employment Security Law that reduce the UI benefit, make severance pay deductible from UI benefits and affect UI tax rate schedule assignment. Governor Jay Nixon vetoed the bill on May 5, 2015. The House of Representatives overrode the veto on May 12, 2015, but the Senate adjourned for the regular session without voting on the override. During the fall 2015 veto session, the Senate reconsidered H.B. 150 and overrode the governor’s veto.

The AFL-CIO filed a lawsuit, seeking a permanent injunction against H.B. 150 on the basis that the Senate did not have the constitutional authority to reconsider the governor’s veto of H.B. 150 during the veto session because the governor’s veto occurred more than five days before the end of the regular legislative session and the Senate failed to act before the ending date. On November 13, 2015, Cole County Circuit Judge Jon Beetem upheld the Senate’s override of the veto, finding that the Senate did not violate the Missouri Constitution when it reconsidered H.B. 150 during the fall veto session.

The AFL-CIO appealed the Circuit Court decision to the Missouri Supreme Court, and arguments were heard on January 13, 2016.

Ernst & Young LLP insights

On January 16, 2016, President Obama released proposals for modernizing unemployment insurance, including a federal mandate that states provide no less than 26 benefit weeks to qualified workers.

Missouri is one of nine states that have reduced benefit weeks below 26 to shore up trust fund balances.
Nevada

2016 employer UI bond assessment to increase

As we reported in the November 2015 issue of Payroll Perspectives, the quarterly bond assessment that contributory employers are still required to pay in 2016 will increase from calendar year 2015. The bond assessment is used to make principal, interest and administrative payments on bonds issued in 2013 to repay the state’s federal unemployment insurance (UI) loan.

The 2016 bond assessment rates are 0.16%, 0.29%, 0.68% and 0.87%, up from 0.14%, 0.26%, 0.6% and 0.8%. The assigned rate is based on the employer’s reserve ratio used in assigning the employer’s 2016 state unemployment insurance (SUI) tax rate, and it is paid on wages up to the same taxable wage base as for SUI contributions — $28,200 for 2016. Employers with low SUI tax rates will have lower bond factor rates than employers with higher SUI rates.

Though SUI tax rates decreased, combined SUI taxes are increasing for 2016

The average SUI tax rate for 2016 decreases to 1.95% (down from 2.0% for 2015), while the average bond contribution rate increases from 0.56% in 2015 to 0.62% in 2016.

Combined, the overall average tax rate for 2016 increases to 2.62%, up from 2.61% for 2015, and the average cost per employee increases to $738.84 from $725.58, primarily due to the increase in the taxable wage base for 2016 to $28,200.

SUI tax rate notices issued in December; bond assessment notices go out at end of January

Employer SUI tax rates were issued by the Nevada Department of Employment, Training and Rehabilitation on December 28, 2015. The bond assessment notices were scheduled to be issued to employers during the last week of January 2016.

Assessment rates and computation, reporting method

The bond assessment is computed on a four-tier system, varying based on the employer’s SUI experience, with the quarterly SUI taxable wages multiplied by the employer’s assigned bond factor rate. For 2016, under the fourth tier, assigned to the lowest SUI-rated employers with positive reserve ratios of at least 9.8%, the bond assessment rate is 0.16%. Under the third tier, assigned to employers with positive reserve ratios of less than 9.8% but at least 0.0%, the bond assessment rate is 0.68%.

Under the second tier, assigned to employers with negative reserve ratios, the bond assessment rate is 0.87%.

Finally, under the first tier, assigned to employers paying at the new employer rate of 2.95%, the bond assessment rate is 0.29%. (The UI rates of 2.65% and 0.85% have two different bond factors possible, assigned depending on the employer’s reserve ratio.) The bond assessment is paid on wages up to the same taxable wage base as for SUI contributions, $28,200 for 2016.

Employers file a quarterly bond contribution report and pay the associated assessment amount on Form BR, Quarterly Bond Contributions Report, filed separately from the quarterly SUI Form NUCS-4072, Employers Quarterly Contribution and Wage Report and payment. Failure to file the bond contribution form and pay the associated bond assessment could result in penalties and interest charges, even if the bond assessment is paid with the SUI contributions.

Nevada bond interest surcharge is offset by lower FUTA tax for businesses

Nevada repaid its federal unemployment insurance loan balance by issuing bonds during the first week of November 2013, allowing the net federal unemployment insurance (FUTA) tax rate to return to 0.6% for calendar years 2013-15. Bond contributions, which began with the first quarter 2014, will continue to be collected quarterly from employers until the bonds are fully repaid in late 2017 or early 2018.
New Hampshire

SUI tax rates to remain the same for first quarter 2016 as for fourth quarter 2015

The New Hampshire Department of Employment Security announced that the "fund balance reduction" will remain 1.0% for the first quarter 2016. Negative-balanced employers will continue to see a 0.5% inverse rate surcharge added to their SUI tax rates for the first quarter 2016. As a result, employers will pay at the same state unemployment insurance (SUI) tax rates as for the fourth quarter 2015. (New Hampshire Department of Employment Security website, January 2016.)

The fund balance reduction cuts the tax rate at most to the minimum rate of 0.1%; therefore, employers originally assigned close to or at the minimum tax rate will not see the full 1.0% reduction.

Employers registered with the Department’s Webtax electronic reporting system can access the rate that will apply effective January 1, 2016.

New employer rate

The new employer rate will continue to be 1.7% for the first quarter 2016, including the additional 0.2% administrative contribution surcharge.

Taxable wage base

The taxable wage base continues at $14,000 for calendar year 2016. (New Hampshire Department of Employment Security website; RSA §282-A69.)

State law provides for reductions when the UI trust fund is strong

A 0.5% reduction in the assigned SUI tax rate is allowed if the state UI trust fund equals or exceeds $250 million throughout the preceding quarter; a 1.0% reduction is allowed if the trust fund equals or exceeds $275 million; and a 1.5% reduction is allowed if the trust fund equals or exceeds $300 million.

Fund balance reductions started up again in fourth quarter 2014

As we reported previously, a fund balance reduction of 0.5% took effect for the fourth quarter 2014. It increased to 1.0% for the first quarter 2015, decreased to 0.5% for the second and third quarters 2015, and increased to 1.0% for the fourth quarter 2015 and the first quarter 2016. Prior to the fourth quarter 2014, a fund balance reduction had not been in effect since the fourth quarter 2008.

Inverse rate surcharge

An inverse rate surcharge has been added to negative-balanced employers’ tax rates since the first quarter 2010 at 1.5%, decreasing to 1.0% for the fourth quarter 2014 and to 0.5% for the first quarter 2015, increasing back to 1.0% for the second and third quarters 2015, and decreasing to 0.5% for the fourth quarter 2015 and the first quarter 2016.

Emergency surcharge

State UI law gives the Commissioner of Employment Security the discretion to add or remove a surcharge based on the balance of the trust fund.

Due to the economic downturn, a 0.5% emergency surcharge was added to all employers’ tax rates in 2009 to help increase the UI trust fund balance. A second 0.5% surcharge was added in 2010 as the downturn continued to affect the state. New Hampshire borrowed briefly from the federal government in March 2010 when the trust fund was temporarily insolvent, but it repaid the loan before the end of the same year. The first 0.5% surcharge was removed beginning October 1, 2012, and the second surcharge was removed as of the fourth quarter 2013.

For more information on SUI taxes in New Hampshire, see the Department’s website.
State news

North Dakota

2016 income tax withholding tables available

The North Dakota State Tax Department released the 2016 Income Tax Withholding, Rates and Instructions for Wages Paid in 2016 on its website, including the percentage method for North Dakota state income tax withholding for use with wages paid on or after January 1, 2016.

The 2016 wage-bracket withholding tables are available on the North Dakota State Tax Department website.

Supplemental wages

The supplemental rate of income tax withholding for 2016 is 1.84% (0.0184), down from 2.05%.

Annual percentage method withholding in 2016

Rounding to the nearest dollar is strongly recommended but not required. The 2016 annual withholding allowance amount is $4,050.

<table>
<thead>
<tr>
<th>North Dakota</th>
<th>Effective January 1, 2016</th>
<th>Table 7 — annual payroll period, single person (including head of household)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Over</strong></td>
<td><strong>But not over</strong></td>
<td><strong>Withholding + percent</strong></td>
</tr>
<tr>
<td>$ 0.00</td>
<td>$ 4,300.00</td>
<td>$ 0.00 + 0.00%</td>
</tr>
<tr>
<td>$ 4,300.00</td>
<td>$ 41,000.00</td>
<td>$ 0.00 + 1.10%</td>
</tr>
<tr>
<td>$ 41,000.00</td>
<td>$ 83,000.00</td>
<td>$ 403.70 + 2.04%</td>
</tr>
<tr>
<td>$ 83,000.00</td>
<td>$ 192,000.00</td>
<td>$ 1,260.50 + 2.27%</td>
</tr>
<tr>
<td>$ 192,000.00</td>
<td>$ 413,000.00</td>
<td>$ 3,734.80 + 2.64%</td>
</tr>
<tr>
<td>$ 413,000.00</td>
<td>Or more</td>
<td>$ 9,569.20 + 2.90%</td>
</tr>
</tbody>
</table>

The 2016 annual withholding allowance amount is $4,050.

<table>
<thead>
<tr>
<th>North Dakota</th>
<th>Effective January 1, 2016</th>
<th>Table 7 — annual payroll period, married person</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Over</strong></td>
<td><strong>But not over</strong></td>
<td><strong>Withholding + percent</strong></td>
</tr>
<tr>
<td>$ 0.00</td>
<td>$ 10,000.00</td>
<td>$ 0.00 + 0.00%</td>
</tr>
<tr>
<td>$ 10,000.00</td>
<td>$ 71,000.00</td>
<td>$ 671.00 + 2.04%</td>
</tr>
<tr>
<td>$ 71,000.00</td>
<td>$ 135,000.00</td>
<td>$ 1,976.60 + 2.27%</td>
</tr>
<tr>
<td>$ 135,000.00</td>
<td>$ 240,000.00</td>
<td>$ 4,360.10 + 2.64%</td>
</tr>
<tr>
<td>$ 240,000.00</td>
<td>Or more</td>
<td>$ 9,112.10 + 2.90%</td>
</tr>
</tbody>
</table>

The 2016 annual withholding allowance amount is $4,050.

For a copy of the 2016 withholding tax guide or more information, contact the North Dakota State Tax Department at +1 701 328 1248 or by email at withhold@nd.gov, or see the Department’s website.

2015 withholding tables and rates revised in mid-2015

As we reported in the July 2015 issue of Payroll Perspectives, the passage of S.B. 2349 reduced personal income tax rates by 10% and corporate income tax rates by 5% effective for taxable years after December 31, 2014, resulting in $108 million in income tax relief.

The income tax withholding tables were revised in June 2015, effective retroactively to January 1, 2015, but employers were not required to adjust their withholding for 2015. (S.B. 2349, signed by the governor on April 23, 2015.)

Employers that chose to update their payroll systems for the rest of the 2015 calendar year were not required to make retroactive adjustments to the North Dakota income tax withholding returns already filed or to employees’ paychecks already issued. Employers were also not required to adjust the amount of North Dakota income tax withholding from future wages paid in 2015 to account for any overwithholding that might have occurred with previously issued paychecks.

North Dakota 2015 Form W-2 filing reminders

North Dakota employers with 250 or more Forms W-2 must file them electronically over the Taxpayer Access Point (TAP) system, by flash drive or by secure email to magmedia@nd.gov. Forms W-2 for calendar year 2015 must be filed with the Department no later than February 29, 2016, or by March 31, 2016, if filed electronically. For more information, see the Department’s information return guide.

North Dakota will match federal accelerated deadline for calendar year 2016 Forms W-2 due in 2017

Employers should be aware that since the Department follows federal guidelines on the deadline for filing Forms W-2, the North Dakota deadline for calendar year 2016 Forms W-2 due in 2017 will be accelerated due to the federal legislation enacted on December 18, 2015. As a result, calendar year 2016 Forms W-2 filed on paper or by an electronic method will be due to the Department by the accelerated due date of January 31, 2017. (Telephone conversation, representative, North Dakota Tax Department.)
Pennsylvania

Court overturns Pittsburgh law requiring paid sick leave

The Allegheny (Pennsylvania) County Court of Common Pleas recently found that the City of Pittsburgh’s Paid Sick Leave Ordinance is invalid and unenforceable. Absent an appeal or a reversal, businesses with employees in Pittsburgh will not be subject to the Paid Sick Leave Ordinance. (Pennsylvania Restaurant & Lodging Association et al. v. City of Pittsburgh, Case Number GD 15-016442.)

Background

As we reported in the October 2015 issue of Payroll Perspectives, under the City's Paid Sick Leave Ordinance, most employers with one or more employees in Pittsburgh, Pennsylvania were required to provide paid sick leave beginning on January 11, 2016. Employers with 15 or more employees would have been required to provide up to 40 hours of paid sick leave per year (24 hours for employees with fewer than 15 employees). Employees would have accrued a minimum of one hour of paid sick leave for every 35 hours worked within Pittsburgh (up to the maximum of 40/24 hours per year), unless the employer’s policy was more generous. Employers would have also been required to provide notice to employees about the paid sick leave law and to maintain certain records demonstrating their compliance with it.

Court overturns the Paid Sick Leave Ordinance

In its order, the Court determined that the Paid Sick Leave Ordinance is invalid and unenforceable. The Court ruled that, as a “home rule municipality,” Pittsburgh is prohibited by state law from regulating businesses by “determining their duties, responsibilities or requirements.” Because the Paid Sick Leave Ordinance placed affirmative duties on businesses, occupations and employers, the Court found that the act exceeded the city’s authority as a home rule municipality.

No impact on Philadelphia paid sick leave

As we reported in the June 2015 issue of Payroll Perspectives, under Philadelphia’s Promoting Healthy Families and Workplaces Ordinance, employers of 10 or more employees are required to allow employees to accrue a minimum of one hour of sick leave for every 40 hours worked in Philadelphia, up to 40 hours of sick leave in a calendar year (unless the employer’s policy is more generous).

The decision overturning Pittsburgh’s ordinance has no direct impact on Philadelphia’s paid sick leave requirement. However, Philadelphia’s paid sick leave law could face future legal challenges in light of the successful challenge of Pittsburgh’s ordinance.

Rhode Island

2016 SUI tax rates unchanged

As we reported in the December 2015 issue of Payroll Perspectives, the 2016 SUI tax rates for experience-rated employers continue to range from 1.69% to 9.79% on Rate Schedule I.

The 2016 new employer SUI rate is 2.27% (down from 2.74% for 2015). The 2016 Job Development Fund (JDF) tax rate will continue at 0.21% for calendar year 2016.

Mailing of 2016 rate notices

A representative of the Rhode Island Division of Taxation, Employer Tax Unit, informed us that the 2016 state unemployment insurance (SUI) tax rate notices were mailed to employers on January 8, 2016. Experience-rated employers may take advantage of a new statutory election option to make a voluntary contribution to reduce their assigned SUI tax rates by February 8, 2016. (Email response to inquiry, telephone conversation, January 15, 2016.)

SUI/JDF taxable wage base increased for 2016

The 2016 SUI/JDF taxable wage base increased to $22,000 per employee (up from $21,200 for 2015). For employers with an experience rate of 9.79%, the 2016 wage base increased to $23,500 (up from $22,700 for 2015). For more information, see the Rhode Island Department of Labor and Training’s 2016 UI and TDI quick reference guide.

Voluntary contributions allowed in 2016

As we reported in the September 2015 issue of Payroll Perspectives, legislation enacted in mid-2015 added the option for experience-rated, nondelinquent employers to make a voluntary contribution to reduce their assigned SUI tax rates beginning in 2016. S.B. 813 provided that an experience-rated employer that has filed all required reports and paid all contributions, interest and penalties may make a voluntary contribution within the earlier of 30 days from the mailing date on the annual SUI rate notice or April 30 of the rate year.

(S.B. 813, Chapter 221, signed by the governor on July 10, 2015.)

Eligible employers may make a voluntary contribution to reduce their 2016 SUI rate by February 8, 2016 (30 days from the mailing date). Employers must use the Voluntary Contribution Application for the Year of 2016 transmittal form included with the employer’s 2016 tax rate notice to submit the payment. According to the form, voluntary contributions must be made by certified check or money order. The payment must be clearly identified as a voluntary payment, and the transmittal form must indicate the amount paid, the desired tax rate, and the employer name, address and state UI account number to which the payment should be credited.
The law provides that the agency will not refund a voluntary contribution made by an eligible employer in whole or in part. If a balance is due on the employer’s account when the agency receives the voluntary contribution, the payment will go toward the outstanding balance, not toward reducing the assigned tax rate, and any amount remaining may be refunded. Any outstanding balance should be paid separately and prior to making the voluntary contribution.

Only one voluntary contribution may be made per qualifying year. Because a voluntary contribution made by an eligible employer is non-refundable, employers should take care in determining whether the payment benefits the business.

The transmittal form shows the formulas to calculate the voluntary contribution. Maximum-rated employers wishing to reduce their tax rate should also take into account the reduction in the taxable wage base when computing their tax savings.

The certified check or money order and the transmittal form must be mailed (postmarked) by February 8, 2016, to Employer Tax Section, One Capitol Hill, Suite 36, Providence, RI 02908-5829.

Within 30 days after the voluntary contribution is processed, the employer will receive a revised rate notice showing the recomputed SUI tax rate. If the agency uses the contribution to pay an outstanding balance, the employer will be notified in writing.

For more information or assistance in computing a voluntary contribution, contact the agency at +1 401 574 8767.

## Vermont

### 2016 income tax withholding tables available

The Vermont Department of Taxes released its state income tax withholding tables for tax year 2016. See below for a reproduction of the 2016 annual percentage-method withholding tables. ([Vermont 2016 income tax withholding instructions, tables, and charts.](#))

### Supplemental wages, annuities and deferred compensation payments

The 2016 supplemental rate of income tax withholding remains at 24% of federal income tax withholding.

### 2016 percentage-method withholding

Note that except for nonperiodic payments, employers may no longer compute Vermont withholding as a percentage of the federal income tax withholding. All employers must use the Vermont percentage-method tables or wage-bracket charts. Note also that the “Married Table” is used for civil unions or civil marriages.

#### Vermont 2016 annual percentage-method withholding

<table>
<thead>
<tr>
<th>Vermont</th>
<th>For wages paid on and after January 1, 2016 (single person)</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the wages after subtracting withholding allowances are:</td>
<td>The Vermont income tax withholding is:</td>
</tr>
<tr>
<td>Over</td>
<td>But not over</td>
</tr>
<tr>
<td>$0</td>
<td>$2,650</td>
</tr>
<tr>
<td>$2,650</td>
<td>$39,900</td>
</tr>
<tr>
<td>$39,900</td>
<td>$93,400</td>
</tr>
<tr>
<td>$93,400</td>
<td>$192,400</td>
</tr>
<tr>
<td>$192,400</td>
<td>$415,600</td>
</tr>
<tr>
<td>$415,600</td>
<td>–</td>
</tr>
</tbody>
</table>

**Note:** The amount of each annual withholding allowance for 2016 is $4,050.

#### Vermont 2016 annual percentage-method withholding

<table>
<thead>
<tr>
<th>Vermont</th>
<th>For wages paid on and after January 1, 2016 (married person including civil unions and civil marriages)</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the wages after subtracting withholding allowances are:</td>
<td>The Vermont income tax withholding is:</td>
</tr>
<tr>
<td>Over</td>
<td>But not over</td>
</tr>
<tr>
<td>$0</td>
<td>$8,000</td>
</tr>
<tr>
<td>$8,000</td>
<td>$69,900</td>
</tr>
<tr>
<td>$69,900</td>
<td>$160,450</td>
</tr>
<tr>
<td>$160,450</td>
<td>$240,000</td>
</tr>
<tr>
<td>$240,000</td>
<td>$421,900</td>
</tr>
</tbody>
</table>

**Note:** The amount of each annual withholding allowance for 2016 is $4,050.
Vermont 2015 Form W-2/1099 filing reminders

Electronic filing of Form WH-434, Reconciliation of Withholding Tax Account, and the accompanying Forms W-2/1099 is mandatory for all employers submitting 25 or more Forms W-2 and 1099.

Payroll filing services are required to submit all filings electronically using the Department’s online filing service, myVTax.

Note: The 1099 forms are required (1) when the payment was subject to Vermont withholding or (2) when the payment was made to a nonresident of Vermont for services performed in Vermont. Form WH-434 and Forms W-2/1099 for calendar year 2015 are due to the tax department by February 29, 2016.

Washington

2016 employer SUI tax rates decreased; taxable wage base increased

The 2016 state unemployment insurance (SUI) tax rates in all 40 rate classes decreased to range from 0.10% to 5.7%, down from 0.14% to 5.82% for 2015. This range does not include the delinquency tax rate, which can add up to 2.0% to employers’ computed tax rates, or the additional Employment Administration Fund (EAF) surcharge. (Unemployment insurance taxes fact sheet)

For 2016, approximately 83% of employers will move into a lower rate class or stay the same as 2015. The average rate in 2016 is estimated to be 1.26% — compared with 1.48% in 2015.

2016 taxable wage base

As previously reported, the 2016 SUI taxable wage base will increase to $44,000, up from $42,100 in 2015.

SUI tax rate notices

The Washington Employment Security Department mailed the 2016 SUI tax rate notices to employers on December 30, 2015. (Telephone conversation, experience-rating section representative, January 6, 2016.)

Voluntary contributions to potentially reduce 2016 rates if you act by February 15

Under very limited circumstances, experience-rated employers can make a voluntary contribution by February 15, 2016, to reduce their assigned 2016 SUI tax rate.

By mid-January 2016, the Department mailed a voluntary contribution transmittal to those employers eligible to make a voluntary contribution. The transmittal shows the exact amount of voluntary contribution the employer may submit.

To be eligible for a voluntary contribution, the employer’s 2016 SUI rate must have increased by 12 rate classes over the 2015 SUI tax rate.

The voluntary contribution must reduce the 2016 SUI rate by at least four rate classes but can consist of no more than the two most recent fiscal years of benefits charged to the employer’s account (as of the June 30, 2015, computation date). The employer must also submit a surcharge of 10% of the voluntary contribution together with the voluntary contribution. The 10% surcharge will not be used in determining the revised tax rate. (RCW §50.29.026; telephone conversation, department representative, January 6, 2016.)

EAF surcharge

The additional 0.03% Employment Administration Fund (EAF) surcharge continues to be assessed against all experience-rated employers for 2016 (0.02% for new-employer, maximum-rated and delinquent employers). This surcharge is not certified by the Washington Employment Security Department to the federal government as SUI taxes and should not be used to compute the FUTA tax liability.
Computing tax rates

SUI tax rates in Washington are made up of two components. The first is the experience-based tax, which is based on the amount of unemployment benefits paid to former employees over the past four years. There are 40 experience-rate classes, and businesses move up or down based on their experience.

The second part is called the social-cost tax. It covers unemployment costs that cannot be recovered from specific businesses – so they are shared by all employers (e.g., benefits paid to workers whose company went out of business). During economic downturns, when benefits paid far exceed taxes collected, the social-cost tax also acts like a brake to slow the decline of the trust fund so employers aren’t hit by sharper tax increases in the future.

New businesses are assigned a tax rate that is 90%, 100% or 115% of their industry’s average, depending on the benefits charged and the taxes collected from new employers during the previous three years. The starting tax rate for new businesses in 2016 will continue to be 90% of the average tax rate for the industry that the business is in.

Delinquency tax rates

Employers delinquent in paying taxes or filing quarterly returns as of the September 30 preceding the rate year will be have 1% added to their experience rate (2% in the second year). An employer who receives a delinquent tax rate can reduce the delinquent rate by 0.5% by paying off the entire debt or by entering into a deferred payment contract within 30 days after the mailing date of the employer’s 2016 tax rate notice.

Washington 2016 SUI highlights

Eighty-three percent of Washington employers will pay lower tax rates in 2016, 0.3% remain in the same rate class, and 16% will move into a higher rate class.

About 39% of all taxable employers are in rate class 1, taxed at the minimum rate of 0.10%; 90% of employers in rate class 1 are small businesses with five or fewer employees.

The average tax paid for each employee will decrease by $48, to $277, for 2016. (However, each employer’s actual tax bill will depend on the amount of wages paid to employees and the employer’s rate class.) The average rate will decrease to 1.26% for calendar year 2016, down from 1.48% for 2015.

Unemployment tax collections will decrease from $981 million in 2015 to about $836 million in 2016.

Employers will pay SUI taxes on the first $44,000 of each employee’s earnings in 2016. For an employee earning $44,000 or more, the total tax for the year will range from $44 (employers in rate class 1) to $2,508 (rate class 40). (Unemployment insurance taxes fact sheet, Washington Employment Security Department, January 2016.)

For more information, see the Department’s website.

Wyoming

2016 SUI tax rates to decrease; wage base to increase

The 2016 Wyoming state unemployment insurance (SUI) tax rates range from 0.27% to 8.77%, down from the 2015 range of 0.27% to 10%. (2016 UI tax rate information fact sheet, Wyoming Department of Workforce Services.)

New employer rates are assigned based on average industry and range from 1.27% to 3.85% for 2016. (Wyoming notice.)

2016 taxable wage base

As we reported in the October 2015 issue of Payroll Perspectives, the 2016 Wyoming SUI taxable wage base increases to $25,500, up from $24,700 in 2015.

2016 mailing of rate notice

The 2016 SUI tax rate notices were mailed to employers on December 18, 2015. An appeal of an assigned SUI tax rate must have been received by the Department within 30 days of the mailing date on the rate notice.

For more information, contact the Department at +1 307 235 3217 or see the Department’s website.

Rate factors

The 2016 SUI rates include a 0.110% Employment Support Fund surcharge (down from 0.112% for 2015), which should not be included when filling out the Form 940 worksheet for 2016, and a Noncharge/Ineffective Charge Factor of 0.160% (down from 0.168% for 2015), which is credited to employer accounts. No fund balance factor is added to employer tax rates for 2016.

Delinquent Wyoming employers pay more

Employers delinquent in paying SUI taxes or filing quarterly SUI tax and wage reports as of September 30, 2015, were assigned an additional 2.0% delinquency rate for 2016, up to the maximum rate of 8.77%.

The delinquency rate may be removed as of the second quarter 2016 if the employer submits the delinquent amount or return(s) by the end of the first quarter 2016. (Telephone conversation, tax section, Wyoming Department of Workforce Services.)
# Federal employment tax due dates for February 2016

<table>
<thead>
<tr>
<th>Due date</th>
<th>Deposit or filing requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 1</td>
<td>Forms W-2 and 1099 must be provided to employees and contractors no later than today. The 2015 Form 940 and all FUTA tax payments made for tax year 2015 must be filed by today. The 2015 Form 941, Quarter 4, is due today. If all Form 940 and Form 940 taxes were paid timely and for the full amount, an extended due date of February 10, 2016, applies.</td>
</tr>
<tr>
<td>February 3</td>
<td>Semiweekly deposit due date for liabilities incurred January 27-29</td>
</tr>
<tr>
<td>February 5</td>
<td>Semiweekly deposit due date for liabilities incurred January 30-February 2</td>
</tr>
<tr>
<td>February 10</td>
<td>Semiweekly deposit due date for liabilities incurred February 3-5. Form 4070 is due from employees who received $20 or more in tips in January.</td>
</tr>
<tr>
<td>February 12</td>
<td>Semiweekly deposit due date for liabilities incurred February 6-9</td>
</tr>
<tr>
<td>February 15</td>
<td>If the monthly deposit rule applies, deposit the tax for payments made in January.</td>
</tr>
<tr>
<td>February 18</td>
<td>Semiweekly deposit due date for liabilities incurred February 10-12</td>
</tr>
<tr>
<td>February 19</td>
<td>Semiweekly deposit due date for liabilities incurred February 13-16</td>
</tr>
<tr>
<td>February 24</td>
<td>Semiweekly deposit due date for liabilities incurred February 17-19</td>
</tr>
<tr>
<td>February 26</td>
<td>Semiweekly deposit due date for liabilities incurred February 20-23</td>
</tr>
<tr>
<td>March 2</td>
<td>Semiweekly deposit due date for liabilities incurred February 24-26</td>
</tr>
<tr>
<td>March 4</td>
<td>Semiweekly deposit due date for liabilities incurred February 27-March 1</td>
</tr>
<tr>
<td>March 9</td>
<td>Semiweekly deposit due date for liabilities incurred March 2-4</td>
</tr>
</tbody>
</table>
Are you ready for year-end?

Gaps in your payroll system or employment tax processes can easily go undetected and may result in costly errors in Forms W-2 and other employment tax returns.

Get the support you need for 2016!

Take a look at how Ernst & Young LLP’s employment tax professionals are assisting businesses in meeting their year-end requirements.

Access our free year-end resources here.

**Tax process review**

Through staff interviews, data analysis and random sampling, our team identifies areas of opportunities and risk involving:

- Cash management
- Employee master file and pay/deduction transactions
- Record keeping, data management and reporting
- Federal, state, local and provincial tax reporting
- Efficiency/accuracy safeguards
- Reconciliation and third-party oversight

**Employment Tax (ET) Rapid Assessment™**

With our ET Rapid Assessment™, businesses can access our secure web-based portal, or schedule an on-location meeting to complete our assessment questionnaire and receive a report highlighting potential risks and opportunities within their employment tax operations. Our team of qualified tax professionals supports the process by reviewing the flags, ranking their priority, and codeveloping any follow-up action plans.

**System implementation support**

Adding our skilled resources to the system implementation team adds integrity to the employment tax processes while freeing staff resources to focus on their routine responsibilities. Implementation support is available in all phases, including:

- Data migration planning and implementation
- Design and specifications
- Testing and data sampling

**Tax configuration review**

Employment tax processes are driven by configuration tables, payroll codes and attributes that direct the tax treatment of compensation and how it is ultimately mapped to returns and information statements. Our employment tax team reviews these data elements and assists businesses in designing and managing workflows to maintain their integrity.

**Co-sourcing**

Our qualified professionals are available to meet your employment tax operational needs whether it be staffing, training or responding to one-off questions.

---

*The scope of these services may be limited for Ernst & Young LLP SEC registrant audit clients.*
Ernst & Young LLP contributors:
- Debera Salam, CPP, Editor in Chief
- Gregory Carver, National Director, Employment Tax Advisory Services
- Niko Arhos, National Tax
- Kyle Lawrence, National Tax
- Rebecca Bertothy, National Tax
- Peter Berard, National Tax
- David Chan, National Tax
- Alan Mierke, National Tax
- Gino Petrozzi, National Tax
- Deborah Spyker, National Tax

Special contributing editor:
- Brian Farrington, Esq., Cowles & Thompson, Dallas, Texas

State desk:
- Lisa Miedich, State Employment Tax Analyst

Graphic design and production:
- Shaun Maxwell, Senior Designer
- Scott Mitchell, Copy Editor

Public relations:
- Lizzie McWilliams
  lizzie.mcwilliams@ey.com

Ernst & Young LLP employment tax advisory contacts
- Anthony Arcidiacono
  anthony.arcidiacono@ey.com
  +1 732 516 4829
- Peter Berard
  peter.berard@ey.com
  +1 212 773 4084
- Gregory Carver
  gregory.carver@ey.com
  +1 212 969 8377
- Bryan De la Bruyere
  bryan.delabruyere@ey.com
  +1 404 817 4384
- Jennie DeVincenzo
  jennie.devincenzo@ey.com
  +1 732 516 4572
- Richard Ferrari
  richard.ferrari@ey.com
  +1 212 773 5714
- David Germain
  david.germain@ey.com
  +1 516 336 0123
- Julie Gilroy
  julie.gilroy@ey.com
  +1 312 879 3413
- Ken Hausser
  kenneth.hausser@ey.com
  +1 732 516 4558
- Jessica Heroy
  jessica.heroy@ey.com
  +1 704 331 1869
- Jimmy Kennedy
  jimmy.kennedy@ey.com
  +1 732 516 4170
- Nicki King
  nicki.king@ey.com
  +1 214 756 1036
- Kristie Lowery
  kristie.lowery@ey.com
  +1 704 331 1884
- Candinlin Mendoza
  candinlin.mendoza@ey.com
  +1 212 773 3664
- Chris Peters
  christina.peters@ey.com
  +1 614 232 7112
- Matthew Ort
  matthew.ort@ey.com
  +1 214 969 8209
- Gino Petrozzi
  gino.petrozzi@ey.com
  +1 615 252 2065
- Debera Salam
  debera.salam@ey.com
  +1 713 750 1591
- Debbie Spyker
  deborah.spyker@ey.com
  +1 720 931 4321
- Mike S. Willett
  mike.willett@ey.com
  +1 404 817 4637