



# Payroll Insights

Employment tax news to guide you now and for the future

February 2023



## John's fresh take: Time to update all tax wage limits and rates for 2023

As the new year begins, please ensure that all tax wage limits and rates are updated for 2023 with respect to the Social Security wage base, federal unemployment insurance wage base, state unemployment insurance rates, 401K threshold, etc.

For additional information please take a look at the KPMG and Bloomberg Tax & Accounting year-end [guide & checklist](#).



### Federal updates

#### Common payroll adjustments, and items to consider when amending payroll forms

Now that the major deadlines for IRS compensation filings have passed, employers may be considering amendments to correct items that may not have been picked up correctly in payroll during the tax year or responding to employees requesting changes after reviewing their tax forms. Some of the most common amendments are gross wage or tax changes, state wage allocations, and adjustments due to the Employee Retention Credit. Below we provide an overview of some of the most common amendments and some related considerations.

##### Form W-2c

Timing of amendments are generally driven by administrative capacity and employee requests. Generally withholding taxes (federal, state and local) should not be adjusted, as this form is usually processed after the close of the tax year and taxes can no longer be moved by the employer. Adjustments to Social Security and Medicare tax (excluding Additional Medicare) can be completed as employees do not have the ability to adjust these taxes on their personal return and the obligation to correct lies with the employer.

If correcting a W-2 after it is provided to the employee, but *before* submitting to the Social Security Administration ("SSA"), check the "VOID" box at the top of the incorrect Form W-2 and provide a new copy to the employee (with "Corrected" on top) and the Copy A to the SSA (submitted as original).

##### Form 941-X, Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund

It should be noted that the IRS still has a backlog for processing Form 941 and the related amendments, so employers should allow additional time for processing.

This form is used for all employer reporting changes and amendments. If an amendment is being processed for an earlier quarter during the open tax year, then it is possible to adjust the federal income tax and/or Additional Medicare tax withholding. However, if the adjustment is following the close of the tax year, generally no changes to the employee federal income tax or Additional Medicare tax withholding is allowed and employees must make



those adjustments on their personal returns. For prior years, you may only correct administrative errors to federal income tax withholding (that is, errors in which the amount reported on Form 941, line 3, isn't the amount actually withheld from an employee's wages) and errors for which section 3509 rates apply.

Should employers need to issue a refund for Social Security and Medicare (collectively "FICA") employers should make sure to follow the employee consent process as detailed in [Rev. Proc. 2017-28](#). Employees must agree to all terms of the refund process and employers are required to retain copies of consent forms for up to 7 years.

The error date entered on Form 941-X is the date that the employer identified the error and had enough information to correct it. If you are correcting several errors on a form, then enter the earliest date applicable to the changes. The penalty and interest are driven off of the date supplied on Box 1 of Form 941-X.

### **IRS releases draft publication 15-B for 2023**

On January 6, 2023, the IRS released its 2023 draft of the [Publication 15-B, Employer's Tax Guide to Fringe Benefits](#).

Employers should keep an eye out for a final version, as many benefit changes were drafted for the 2023 tax year. The following information is included in the updated draft publication:

- Monthly exclusion for qualified parking has increased from \$280 to \$300,
- Monthly exclusion for commuter highway vehicle transportation and transit passes is also \$300,
- The tax-free amount for health flexible spending arrangements increased from \$2,850 to \$3,050, and
- Additional changes to meals, lodging, and de minimis benefits.

### **Federal labor law penalties to increase in 2023**

Effective January 15, 2023, the U.S. Labor Department is increasing the amounts of [civil penalties](#) for federal labor law violations. The changes include increases to minimum wage and overtime violations, failure to comply with the Family and Medical Leave Act (FMLA), and violations of child labor provisions.

Maximum penalties for violating minimum wage and overtime laws will increase from \$2,203 to \$2,374, and maximum penalties for unlawfully retaining tips from employees will increase from \$1,234 to \$1,330.

Maximum penalties for employers that are subject to FMLA that do not comply to the posting requirements increased from \$189 to \$204.

Lastly, maximum penalties for violating child labor laws for each violation will increase from \$14,050 to \$15,138.

### **IRS releases Taxpayer Advocate Service's 2022 Annual Report to Congress**

The IRS has released an [annual report](#) describing a significant backlog to paper forms processing as an obstacle it is still attempting to overcome. Based on this report, only 58% of employment tax returns were electronically filed compared to 70% of business income tax returns and 92% of individual tax returns. Currently, only payroll service providers can electronically file returns, so the TAS has recommended the IRS create e-filing capabilities outside of the current methods.

All paper employment tax returns rely on staff to manually enter the information into the IRS' system. Due to funding from the Inflation Reduction Act, the IRS will begin in 2023 to scan limited amounts of employment tax returns helping reduce the backlog.

### **IRS releases final 2023 Form W-4R**

The IRS has released the finalized version of [Form W-4R](#) for 2023. Beginning 2023, the form is required for all nonperiodic pension payments

### **IRS releases final 2022 Form 1042**

On January 6, 2023, the IRS released the final version of the [2022 Form 1042](#). The form did not have any changes from its draft version released on June 9, 2022.

## IRS extends tax deadlines for California storm victims

The IRS [extended](#) filing deadlines for fourth quarter 2022 and first quarter 2023 payroll tax returns for certain California employers. Employers in the affected disaster area will have until May 15, 2023, to file quarterly payroll returns and deposit taxes.

## IRS releases draft Form 941 instructions

The IRS [released](#) draft instructions for the 2023 Form 941. The draft form remains similar to the 2022 Form 941, but the IRS indicates the same 2023 version will be used for all four quarters of 2023. Additionally, the IRS plans that 2023 will be the last year Form-941-SS, *Employer's Quarterly Federal Tax Return—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the US Virgin Islands* will be used. Moving forward, Form-941-SS employers will use the Form 941.



### State updates

#### Alaska:

Alaska has [released](#) its unemployment insurance rates and taxable wage base for 2023. Employer unemployment insurance tax rates range from 1.00% to 5.40%, and the unemployment insurance taxable wage base increased from \$45,200 to \$47,100. Alaska is one of three states that assess unemployment tax rates on employees and the 2023 rate has decreased from .56% to .51%.

#### Arizona:

Arizona has [released](#) updated unemployment insurance tax rates and taxable wage base for 2023. Rates range from 0.07% to 18.78%, and the taxable wage base increased from \$7,000 to \$8,000.

#### California:

Effective January 1, 2023, the California Employment Development Department [announced](#) employers affected by the recent storms may request up to a two-month extension to file and pay payroll taxes without penalties or interest.

#### Connecticut:

Revenue officials in Connecticut are considering ways to evaluate the lost revenue to New York State based on the application of the telecommuting rule on Connecticut residents performing services for New York State employers. The comments were reported on January 23 by Bloomberg following a Finance, Revenue and Bonding committee hearing, and addresses ongoing internal strategy discussions on the matter.

#### Georgia:

Effective January 1, 2023, the Georgia Department of Revenue will [increase](#) the annual interest rate on past due taxes from 6.25% to 10.50%.

#### Illinois:

For the tax year 2023, Illinois has increased its maximum state unemployment insurance tax rate from 7.625% to 8.65% and its taxable wage base from \$12,960 to \$13,271. The unemployment insurance tax rate for newly rated employers has also increased from 3.525% to 3.950%.

#### Massachusetts

Massachusetts has [released](#) its unemployment insurance tax rates and taxable wage base for 2023. Rates range from 0.56% to 8.62%, and the Covid-19 Recovery Assessment rate ranges from .708% to 10.896% combining for a total rate range of 1.268% to 19.516%. The unemployment insurance tax rate for new employers has decreased from 2.42% to 1.45%.

#### Michigan

Michigan has released its [2023 Michigan Income Tax Withholding Guide](#).

#### Montana

Montana has [released](#) its unemployment insurance tax rates and taxable wage base for 2023. Rates range from 0% to 6.12%, and the taxable wage base increased from \$38,100 to \$40,500. The unemployment insurance tax rate for new employers ranges from 1.00% to 2.20%.

### **Nevada:**

Nevada has [announced](#) an increase in the state's unemployment taxable wage base from \$36,600 to \$40,100 for 2023.

### **New Jersey:**

New Jersey has [announced](#) an increase in the state's family leave insurance taxable wage base from \$151,900 to \$156,800, effective January 1, 2023, with a maximum worker contribution of \$94.08.

Beginning April of 2023, [New Jersey employers](#) laying off 50 or more employees will now have to provide severance pay to those affected. The new legislation requires employers to give 90 days' notice to workers who will be part of a layoff and will give each employee one week's pay for each year of employment. If the employer fails to give 90 days' notice, the employee will be entitled to an additional four weeks of pay.

### **New York:**

The New York Department of Taxation and Finance has [posted](#) a reminder that all employers should continue to report certain independent contractors as new hires. Independent contractors receiving more than \$2,500 in payment for a contract should be reported to the state as a new hire providing their name, address, Social Security number, and contract date.

Metropolitan Commuter Transportation Mobility tax was initially started in March of 2009 with a tax rate set at 0.34%. The tax is paid by employers that fall within the Metropolitan Commuter Transportation District (MCTD). The MCTD consists of the five boroughs of New York City and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester. This rate remains consistent through FY 23. Governor Kathy Hochul has proposed an increase in the MCTMT from 0.34% to 0.50% starting in FY24 which is set to start on April 1, 2023. For employers this may mean an increase of 0.16% over what was paid in previous years.

For more information, [click here](#).

### **North Carolina:**

North Carolina has [announced](#) an increase in the state's unemployment taxable wage base for 2023 from \$28,000 to \$29,600. All rates, including new employer rates remain the same.

### **Oregon:**

The Oregon Department of Revenue has [announced](#) an increase in two local transit payroll taxes for 2023. The Tri-County Metropolitan Transportation District (Tri-Met) tax has increased from .7937% to .8037% and the Lane County Mass Transit District (LTD) tax has increased from .77% to .78%. Both taxes are employee contributions assessed on wages paid to the employee.

### **Pennsylvania:**

Pennsylvania has [released](#) its unemployment insurance tax employee contribution tax rates for 2023. The unemployment tax rate for Pennsylvania employees will increase from .06% to .07%.

### **Washington:**

Washington has [released](#) its unemployment insurance tax rates and taxable wage base for 2023. Rates range from 0.27% to 6.02%, and the taxable wage base increased from \$62,500 to \$67,600.

### **West Virginia:**

West Virginia has [released](#) revised information regarding interest calculation and failure to file penalties.

### **Vermont:**

Vermont [released](#) updated specification for electronic filing of information reporting returns. Taxpayers submitting more than 25 W-2 and 1099 forms combined will need to electronically file the information.



## Meet one of our employment tax professionals: Seth Tawes

Seth is a Senior Associate with our team based in Tyson's Corner, Virginia. Seth has been with the firm since 2018 and has experience with both employment tax and asset management. Seth assists many clients with expatriate payroll reporting, work from anywhere consulting matters, and 1099 reporting compliance. As a University of Maryland graduate, Seth's favorite time of the year is right around the corner as March Madness quickly approaches. Go Terps!

**T:** 703-286-6736

**E:** stawes@kpmg.com

## Contact us

**John Montgomery**  
**National Employment Tax Lead Partner**  
**T:** 212-872-2156  
**E:** jmontgomery@kpmg.com

**Reagan Aikins**  
**Managing Director, Employment Tax**  
**T:** 703-286-6596  
**E:** raikins@kpmg.com

**Mindy Mayo**  
**Managing Director, Employment Tax**  
**T:** 408-367-5764  
**E:** mindymayo@kpmg.com

**Manan Shah**  
**Managing Director, Employment Tax**  
**T:** 404-739-5247  
**E:** mananshah@kpmg.com

**Jon Stone**  
**Managing Director, Employment Tax**  
**T:** 408-367-1983  
**E:** jwstone@kpmg.com

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

[kpmg.com/socialmedia](https://www.kpmg.com/socialmedia)



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2023 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization. NDP416918-1B