



American Payroll Association

Government Relations • Washington, DC

December 15, 2017

Mr. David J. Kautter
Acting Commissioner

Ms. Kirsten Wielobob
Deputy Commissioner for Services and Enforcement

Mr. Jeff Tribiano
Deputy Commissioner for Operations Support

Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Re: Preparing for Implementation of the Tax Cuts and Jobs Act

Dear Commissioner Kautter and Deputy Commissioners Wielobob and Tribiano:

Should the Tax Cuts and Jobs Act (H.R. 1) become law with many provisions effective on January 1, 2018, the American Payroll Association (APA) is reaching out to you with some implementation concerns that we believe you share. It is not realistic to think payroll professionals and IRS staff can implement these significant changes within days of enactment. Even with APA's stakeholder partnership with the IRS, we know it will take time to create guidance and provide educational outreach to payroll professionals and their employers, and then for payroll service providers and payroll departments to implement the changes. APA's experience in 1987 following the last overhaul of the tax system shows that this concern is very real, even with current electronic capabilities.

New Forms W-4 for Every Employee

With the elimination of personal exemptions under the tax code in favor of doubling the standard deduction, while at the same time possibly providing an "as if there were an exemption" amount to use in determining employee withholding allowances, the bill would make it very difficult for employees to complete their Forms W-4 so they could properly calculate their annual federal tax liabilities. Yet, every employee will be required to understand the new tax law and likely file a new Form W-4 (which the IRS will need to create first) to request withholding on 2018 taxable income (in amounts equal to what the employees estimate will be needed to cover their 2018 income tax liabilities).

APA's 21,000 members represent 17,000 employers, who in turn will be required to process more than 40 million new Forms W-4 and Forms W-2 for U.S. employees. While tax reform legislation is

outside of the IRS's control, our members are already starting to panic, on behalf of themselves and millions of employees, about the effect on 2018 withholdings of a tax bill that will be effective a week after its enactment. To the extent possible, the IRS can play a role in offering some relief.

To mitigate the effects of what could be widespread withholding problems, APA recommends that employers be allowed to continue to apply, throughout 2018, the 2017 versions of Forms W-4 (even though they reflect the use of "personal exemptions" that will no longer part of the law), because it will take months to design and implement an effective new Form W-4 system (e.g., one that allows employees to request wage withholding allowances, perhaps based upon "deduction equivalents" to the longstanding personal exemption system).

2018 Withholding Tables

Because of the uncertainty involved in what the federal income tax rates will be in 2018 and how many tax brackets there will be, even if some version of H.R. 1 is enacted into law by Christmas, it will take the IRS some time to produce percentage method and wage-bracket withholding tables for employers and payroll software and service providers to use during the year. President Trump said the IRS assured him that employees would begin to see a difference in their paychecks because of his promised tax cuts in February. As we have made clear to the IRS several times in the past, the most recent being the "fiscal cliff" days of late 2012 and early 2013, the vast majority of employers should be able to implement new tax tables within 4-6 weeks after their release.

We request that the IRS take this into consideration when issuing the 2018 tax tables and provide employers with a reasonable implementation period. Another issue for IRS is whether the withholding tables will be calculated to take into account the January 1 effective date and include extra reduced withholding to account for the lower tax rates from the date they take effect. This issue also has come up before, and APA is more than willing to work with the IRS on its resolution and implementation.

Dealing With Repealed Deductions

In addition to the payroll withholding complications posed by the bill, there are the provisions in one or both of the bills that will turn many nontaxable, employer-provided fringe benefits into taxable wages for employees at the beginning of 2018. Among these oft-used and widespread benefits are reimbursed moving expenses, dependent care assistance, education assistance, tuition reduction for dependents of college employees, and awards such as a retirement watch.

APA is requesting transition relief – applicable throughout 2018 – from any penalties for failing to properly withhold or deposit federal income tax, should a version of H.R. 1 be enacted into law. Employers and payroll professionals are the main reason that the tax withholding system works in the first place, and making massive changes to the system with an unconscionably short lead time is a recipe for disaster. The IRS has often provided payroll systems time to adjust when major changes to taxation and reporting requirements were enacted (e.g., the Affordable Care Act).

Working With the IRS

APA and its members participate on IRS advisory committees, including IRSAC, IRPAC, ETAAC, NPL Practitioner Meetings, and the Security Summit. We also work with the IRS to develop topics for discussion on monthly IRS Payroll Industry Conference Calls. In addition, the IRS regularly participates in APA's annual conferences, the Capital Summit and Congress, both of which will be in the Washington, D.C. area in 2018. APA continues to push the U.S. House of Representatives and Senate to increase funding for the IRS. With over 68% of IRS collections coming through payroll, these efforts are critically important to our joint success. APA is prepared to work with the IRS on implementing legislative changes and would be pleased to assist your staff moving forward.

Sincerely,

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