

Preparing for Year-End and 2022

Table of Contents

PART 1: YEAR-END PREPARATION

Year-End Action Items List	1-1
W-2 Reporting Due Dates	1-6
1095-C Reporting Due Dates	1-6
Form 8922 Reporting Due Date	1-6
Action Items Completed Throughout the Year	1-6
Business Continuity Planning and the Year-End Process	1-11
Avoiding W-2 Phishing Attempts	1-35
Reporting Data Losses	1-35
How to Report Data Loss Related to the W-2 Scam	1-36
How to Report Data Loss to State Tax Agencies	1-36
How to Report Data Loss to Other Law Enforcement Officials	1-36
What to Tell Employees	1-36
How to Report a W-2 Scam Email Message	1-37
Fake Payroll Deposit and Wire Transfer Emails	1-37
Scams Also Target Form I-9 Data	1-39
Verifying Social Security Numbers	1-39
SSA Discontinues Sending No-Match Letters; Reminds Employers to Use BSO	1-40
Tools in BSO	1-40
How to Find and Correct Mismatches	1-40
Changes to SSN Assignment	1-41
SSA's Social Security Number Verification Service (SSNVS)	1-41
E-Verify	1-48
State E-Verify Requirements	1-48
Reporting Employees' Names and Social Security Numbers	1-48
Reporting an Employee's Name and SSN on Form W-2	1-49
IRS Penalties for Employee Name/SSN Mismatches	1-51
IRS Guidance on Abating W-2 Name/SSN Mismatch Penalties	1-53
IRS Advice to Employers for SSN Compliance	1-54
Electronic Reporting of Forms W-2/W-2c	1-54
Business Services Online (BSO)	1-55
2021 Specifications for Filing Forms W-2 Electronically (EFW2)	1-58
2021 Specifications for Filing Forms W-2c Electronically (EFW2C)	1-59
AccuWage	1-63
W-2 Online - Create W-2s	1-64
W-2c Online - Create W-2cs	1-65
Electronic Delivery of Forms W-2 and 1095-C to Employees	1-67
Retention of Returned W-2 and 1095-C Forms	1-70
Appendix – Part 1: Year-End Preparation	1-70
Payroll and Programmer 2021 W-2 Electronic Reporting Checklist	1-70

PART 2: STATE REGULATIONS IMPACTING YEAR-END

Tax Year 2021 State Annual Reconciliation Returns	2-1
Tax Year 2021 State Magnetic/Electronic Reporting – Form W-2	2-3

State Unemployment Wage Bases – 2022 Versus 2021	2-5
State Unemployment Benefit Trust Fund Status	2-6
FUTA Credit Reductions Because of State Loans	2-6
Credit Reduction States	2-6
Additional “2.7% Add-On” and/or BCR Taxes May Apply in 2021	2-7
States Begin Borrowing Amid COVID-19 Pandemic	2-7
Voluntary Contributions (VC) to State Unemployment Accounts	2-7
Voluntary Contribution Example	2-9
State Disability Insurance and Paid Family Leave (PFL)	2-9
State Responses to COVID-19	2-13
Nexus/Telecommuting	2-13
State Unemployment Insurance	2-19
State Disability Insurance and Paid Family Leave	2-20
State and Local Emergency Paid Leave Requirements	2-33
Paid Sick Leave Law Provisions Related to COVID-19	2-33
Recent State Paid Sick Leave Guidance	2-54

PART 3: ANNUAL CHANGES

Social Security Wage Base and Tax Rate	3-1
Social Security Trustees Issue Annual Report With Projected Wage Bases	3-1
Medicare Tax Rate	3-2
Social Security Earnings Limit	3-2
Retirement Plan Changes/Cost of Living Adjustments	3-3
Fringe Benefit Limitations	3-5
Adoption Assistance Programs	3-5
Medical Flexible Spending Accounts	3-6
Definition of Control Employee	3-6
Highly Compensated Employee Alternative	3-6
Federal Per Diem Allowances	3-6
Lodging and M&IE Rates	3-7
Special transportation industry rates	3-8
High-low Substantiation Method	3-9
Federal Standard Mileage Rates	3-16
Federal Standard Deduction and Personal Exemption Values	3-17
Federal Tax Levies	3-18
Standard Industry Fare Level (SIFL) Rates	3-25
Automobile Rates	3-26
Cents-Per-Mile Valuation Method	3-26
Luxury Car Value	3-27
SUV, Fleet, and Fleet SUV Maximum Car Values	3-27
Commuting Valuation Method	3-27
Annual Lease Valuation Method	3-27
Qualified Transportation Fringe Benefit Limits	3-29
Income Exclusion for U.S. Citizens Living Abroad	3-30
Health Savings Accounts	3-31
Medical Savings Accounts	3-32
Long-term Care Insurance Benefits	3-32
Employer Shared Responsibility Payments Under the ACA	3-32
Percentage Used to Determine Health Insurance Affordability Under the ACA	3-33
Information Returns Penalties	3-34

PART 4: YEAR-END REPORTING AND TAXATION OF FRINGE BENEFITS

General Rule on Income Inclusion	4-1
Communicating and Collecting Taxable Benefit Information	4-1
COMMUNICATING – Why Is Good Communication Necessary?	4-1
Taxable Fringe Benefits	4-2
No Dollar Limit on De Minimis Fringe Benefits	4-2
When Fringe Benefits Are Considered Paid	4-3
Withholding on Fringe Benefits	4-4
Special Accounting Rule	4-4
Depositing Taxes on Fringe Benefits	4-5
Supplemental Wage Payments	4-5
Federal Supplemental Wages	4-5
Federal Supplemental Wages Definition	4-5
Federal Flat Tax Rates on Supplemental Wages	4-7
Aggregate Method	4-7
State Tax Rates on Supplemental Wages	4-8
Paying Employees' Taxes	4-9
Determining Gross-Up	4-9
Employer-Paid Taxes	4-10
Special Situations	4-11
Moving Expenses	4-11
Group-Term Life Insurance	4-12
Awards and Prizes	4-15
Qualified Transportation Fringe Benefits	4-18
Loans to Employees	4-19
Draws Against Commissions	4-19
Questions to Ask	4-20
Deferred Compensation	4-20
Qualified Plans	4-20
Section 401(k) Plans	4-20
Nonqualified Deferred Compensation Plans	4-21
Cafeteria Plans and Flexible Benefit Plans	4-25
Proposed Cafeteria Plan Regulations	4-25
Additional Information on Cafeteria Plans	4-32
Nonqualified Stock Options	4-34
Dependent Care Benefits	4-35
Adoption Assistance	4-37
Year-End Reporting Issues	4-37
Third-Party Sick Pay Reporting	4-37
Third-Party Sick Pay Responsibility Chart Where Liability Is Transferred to Employer	4-42
Reporting Back Pay	4-43
Special Wage Payments	4-47
Overpayments and Repayments	4-53
Retirement Plan Checkbox on Form W-2	4-57
W-2 Reporting of Cost of Employer-Provided Health Coverage	4-60
Employers Subject to the Reporting Requirement	4-60
Method of Reporting on Form W-2	4-61
Methods of Calculating the Cost of Coverage	4-61
Termination of Employment	4-62

Multiple Employers	4-62
Predecessor and Successor Employers	4-63
No Reporting If W-2 Not Otherwise Required	4-63
Form W-3 Reporting Not Required	4-63
Cost Changes During the Year	4-63
Reporting on Forms 1094-C and 1095-C	4-66
IRS FAQs Provide Guidance on the ACA's Employer Shared Responsibility Provisions	4-79
IRS Provides Additional Guidance to Help ALEs Understand ACA ESRP Penalties.	4-80
Letters 227	4-81
Questions and Answers	4-81
Update on IRS Enforcement of the ACA's ESRP Provision	4-82

PART 5: GOVERNMENT ISSUES REVIEW

Legislative Actions	5-1
COVID-19-Related Legislation and Guidance	5-1
The Development of COVID-19 Relief Measures	5-1
Other COVID-19 Relief Measures.	5-3
IRS Creates FAQs for Paid Sick and Family Leave Credits For 2nd, 3rd Quarters	5-4
IRS Updates FAQs for Paid Sick and Family Leave Credits for Vaccinations	5-4
IRS Provides Guidance, Fact Sheet for Paid Leave for COVID-19 Vaccines	5-5
IRS Releases Guidance on ERC Changes Under ARPA	5-5
Changes Made by the ARPA	5-5
IRS Issues Safe Harbor for ERC Eligibility	5-6
IRS Notice Provides Guidance on COBRA Premium Assistance Tax Credit.	5-7
IRS Provides More Guidance on COBRA Premium Assistance Tax Credit.	5-8
IRS Extends Penalty Relief for Failure to Deposit Employment Taxes	5-9
IRS Provides Guidance on Paying Deferred Social Security Tax	5-11
IRS Provides Additional Guidance for Employers and Third-party Payers on Payments of the Employers' Share of Social Security Tax Deferred in 2020	5-12
IRS Extends Leave-Based Donations for COVID-19 Victims	5-12
IRS Resumes Levy Collections, Sending Notices.	5-13
Biden Signs Legislation Establishing Juneteenth Federal Holiday	5-13
2021 Legislative and Regulatory Proposals	5-14
Early Biden Administration Actions Signal Big Potential Payroll Impacts	5-14
Biden Administration Releases Fiscal 2022 Budget	5-15
Treasury Releases Report on the Biden Administration's Tax Compliance Agenda	5-15
IRS Proposes Rules to Lower Electronic Filing Threshold	5-16
DOL Proposes Revised Regulations That Clarify Tip Credit	5-17
DOL Proposes Rule to Increase Federal Contractor Minimum Wage	5-19
Other Proposed Legislation	5-19
Final Regulations and Guidance.	5-24
COVID-19-Related Guidance	5-24
IRS Data Affirms Payroll's Vital Role in Nation's Tax System.	5-24
IRS Finalizes Rules on Deadlines for Federally Declared Disasters.	5-24
IRS Provides Guidance on Continued Flexibility for Cafeteria Plans	5-25
IRS Issues Guidance on Dependent Care Assistance Programs	5-27
IRS Answers Qualified Transportation Fringe Benefits Questions	5-29
Employees Cannot Receive Cash Refunds for Unused QTF Benefits	5-30
IRS Issues Final Rules for Meals and Entertainment Expenses.	5-30
IRS Issues Guidance on Temporary Increase for Food, Beverage Deduction	5-33

IRS Adjusts Foreign Housing Cost Exclusion Amount for 2021	5-33
Iraq Granted Foreign Earned Income Exclusion Requirement Waiver for 2020	5-34
ACA Affordability Percentage Decreases to 9.61% for 2022.	5-35
IRS Issues Final Rules for Federal Income Tax Withholding.	5-35
DOL Rescinds 2020 Joint Employer Final Rule	5-38
DOL Withdraws Independent Contractor Rule	5-39
DOL Withdraws Opinion Letters Addressing FLSA.	5-40
DOL Reinstates Policy on Pursuing Pre-Litigation Liquidated Damages	5-41
Court Decisions	5-42
Supreme Court Dismisses ACA Case for Lack of Standing; Other Updates on Cases of Interest to Payroll Professionals	5-42
IRS Disagrees With 11th Circuit Interpretation That PEO Was Employer	5-43
Appeals Court Defines Workweek Under FMLA for Rotational Employees	5-43
Court Withdraws Prior Ruling on Salary Basis, Agrees Daily Rate May Satisfy Requirement for FLSA Exemption.	5-44
Appeals Court Agrees Organ Coordinator Was an HCE.	5-46
Court of Federal Claims Rules Employer Failed to Show Reasonable Cause for Penalty Abatement After Owner Has Serious Accident	5-47
Appeals Court Overturns Bankruptcy Court Ruling on Timing Issue	5-48
Appeals Court Rules Per Diems Should Be Part of Regular Rate	5-50
Court Finds Company Breached Contract by Not Paying a Salary.	5-52
Court Rules Employer Liable for Overtime Due to Incomplete Records.	5-54
Agency Initiatives	5-55
DOL Renews Misclassification Agreements With Two States	5-55
SSA Discontinues No-Match Letters.	5-56
OCSE Updates IWO Guide	5-56
IRS to Update Application Process for FIRE Users	5-57
IRS Creates Resource to Explain Tax Penalties	5-57
DOL Ends PAID Program	5-58
Where to Get Information	5-58
Phone Numbers	5-58
Internet Websites	5-59
APA Government Relations Webpages	5-61
Regional Employer Service Liaison Officers.	5-62

PART 6: ESSENTIAL FORMS AND PUBLICATIONS

Form 941, <i>Employer's Quarterly Federal Tax Return</i>	6-1
Schedule B (Form 941), <i>Report of Tax Liability for Semiweekly Schedule Depositors</i>	6-67
Schedule D (Form 941), <i>Report of Discrepancies Caused by Acquisitions, Statutory Mergers, or Consolidations.</i>	6-75
Schedule R (Form 941), <i>Allocation Schedule for Aggregate Form 941 Filers</i>	6-83
Form 7200, <i>Advance Payment of Employer Credits Due to COVID-19.</i>	6-90
Form 941-X, <i>Adjusted Employer's Quarterly Federal Tax Return or Claim for Refund</i>	6-108
Form W-2, <i>Wage and Tax Statement.</i>	6-128
Substitute Wage and Tax Statements to Employees	6-141
Form W-3, <i>Transmittal of Wage and Tax Statements.</i>	6-145
Form W-2c, <i>Corrected Wage and Tax Statement</i>	6-147
Form W-3c, <i>Transmittal of Corrected Wage and Tax Statements</i>	6-150
Form 940, <i>Employer's Annual Federal Unemployment (FUTA) Tax Return</i>	6-152

Schedule A (Form 940), <i>Multi-State Employer and Credit Reduction Information</i>	6-161
Schedule R (Form 940), <i>Allocation Schedule for Aggregate Form 940 Filers</i>	6-164
Form 945, <i>Annual Return of Withheld Federal Income Tax</i>	6-169
Form 945-A, <i>Annual Record of Federal Tax Liability</i>	6-172
Form 1099-MISC, <i>Miscellaneous Income</i>	6-175
Form 1099-NEC, <i>Nonemployee Compensation</i>	6-179
Form 8809, <i>Application for Extension of Time To File Information Returns</i>	6-181
Form 8922, <i>Third-Party Sick Pay Recap</i>	6-184
Form 4419, <i>Application for Filing Information Returns Electronically (FIRE)</i>	6-187
Form W-4, <i>Employee's Withholding Certificate</i>	6-190
W-4P, <i>Withholding Certificate for Pension or Annuity Payments</i>	6-197
W-4P, <i>Withholding Certificate for Periodic Pension or Annuity Payments (Draft 2022 version)</i>	6-205
W-4R, <i>Withholding Certificate for Nonperiodic Payments and Eligible Rollover Distributions (Draft 2022 version)</i>	6-211
Forms 668-W and 668-D	6-214
Additional Forms and Publications	6-226

PART 7: GOVERNMENT/PUBLIC SECTOR PAYROLL ISSUES

Election Workers	7-1
Form I-9	7-1
New Hire Reporting	7-1
Withholding and Reporting Requirements for Election Workers	7-1
Jurors' Compensation	7-2
State/Local Benefits for Volunteer Emergency Responders	7-3
Section 218's Impact on Social Security and Medicare Tax	7-3
Congressional Hearing Highlights Challenges Facing State and Local Governments	7-3
SSA Form for State and Local Government New Hires	7-4
Windfall Elimination Provision	7-8
Mandatory Medicare Coverage	7-8
Continuing Employment Exception	7-8
Student FICA Exception	7-10
W-2 Reporting of Qualified Government Employees	7-12
Teacher Contracts for 12-Month Pay Covering Shorter Terms	7-14
Notice 2008-62	7-14
Government Pension Plans	7-16
Defined Benefit Plans	7-16
Defined Contribution Plans	7-16
Section 401(a) Employer Pick-Ups	7-16
Employer's Payments to Pension Plan	7-17
IRS Clarifies Rules on Employer 'Pick-Up' Contributions	7-17
Section 457(b) Plans	7-18
Eligible Plans	7-18
Individuals Eligible to Participate in §457(b) Plans	7-18
Discrimination Testing	7-19
Annual Deferrals	7-19
IRS Allows COVID-19-Related Loans, Distributions From Retirement Plans	7-26
Plan to Plan Transfers	7-27
Rollovers to Eligible Plans	7-28

Loans	7-28
Sick and Vacation Pay Deferrals	7-29
Reporting Requirements	7-29
Correction Program for §457(b) Eligible Deferred Compensation Plans	7-34
Section 403(b) Plans	7-34
ERISA versus Non-ERISA §403(b) Annuities	7-34
Automatic Elections	7-39
Reporting Requirements	7-40
Comparison Chart for §403(b) and §457(b) Plans	7-41
Fringe Benefit Compliance Self-Assessment for Public Employers	7-42
Use of Vehicles by Law Enforcement Officers	7-43
Use of Vehicles by Public Safety Officers	7-46
Differential Military Pay	7-46
Income Tax Withholding, FICA and FUTA Treatment	7-47
Deferrals From Differential Military Pay to Qualified Retirement Plans	7-48
Fair Labor Standards for State and Local Governments	7-48
Compensatory Time	7-48
Occasional/Sporadic Employment	7-50
Off-Duty Officers Were Not Eligible for Overtime	7-50
Legislative, Regulatory ‘Hot Topics’ for Gov’t Sector Employers	7-53
Casual Clothing for Police and Firefighters Is Not Wages.	7-53
‘Volunteer’ Firefighters Were FLSA Employees.	7-55
School Mentor Was FLSA-Exempt Volunteer	7-56
Emergency-Management Coordinators – Do They Qualify for Learned Professional or Administrative Exemptions?	7-57