

What the W-4 is that? Answers to Your Questions about the New W-4

Labor & Employment Law Update

on January 8, 2020

Following the 2017 Tax Cuts and Jobs Act, which made major changes affecting taxpayer withholding, the IRS announced it would be redesigning Form W-4. The new W-4 has officially been released, creating confusion and questions (at the time of this article the new federal 2020 W-4 can be found on the IRS website).

First and foremost, employers do **NOT** need to get all employees to sign a new W-4. According to IRS Publication 15, employers are to remind employees before December 1 each year to submit a new W-4 form if their withholding allowances have changed or will change for the next year. If the employee does not submit a new W-4 form, the company must continue to withhold taxes pursuant to the last valid W-4 that was provided. If the employee has not ever submitted a valid W-4, the company must withhold tax as if the employee is single with no other adjustments.

So, again, just because there is a new W-4 form (that looks drastically different), you do not have to have all of your current employees fill out a new W-4. A W-4 previously filled out by an employee will continue to be good until the employee decides to change their withholdings. The only exception is employees who claim to be exempt from any withholdings (i.e. no taxes withheld at all from wages). As addressed below, employees must complete a new W-4 annually to maintain a full exemption

Employers should ensure that new W-4s are used as follows:

- **New employees.** All new employees hired or paid in 2020 are required to use the current year's W-4 form and applicable state W-4.
- **Employees who want to change their withholdings.** Life can sometimes change quickly, if something happens during the year and an employee wants to change his or her exemptions, adjustments, withholdings or credits, the employee will need to fill out a the new W-4 form and applicable state W-4. Note, an employee is permitted to complete a W-4 anytime, not only when a major life event happens — this could be as simple as the employee realizing that instead of getting a refund, he or she wants to stop providing an interest free loan to the government.

- **Employees claiming exemption from withholding.** All W-4s claiming an individual is exempt from any taxes being withheld expire on February 16th each year. This means, that any employee claiming to be exempt from withholdings, should be reminded to turn in a new W-4 (using the new form) by February 15th and advised that if they do not submit a new W-4, you are required to withhold taxes based on the last W-4 in which the employee did not claim to be exempt or, if the employee has always claimed a complete exemption, the employee will be treated as being single with no other adjustments.

To help employees (and you) the IRS has created an Estimator to help employees determine what they should put on their W-4 at www.irs.gov/W4App.

Finally, W-4s have to be filled out for all non-U.S. Citizens ("Aliens"). Resident Aliens should be treated the same as U.S. Citizens when filling out the new W-4. Nonresident aliens should be provided the Supplemental Form W-4 Instructions for Nonresident Aliens, which provides:

- Non-Resident Aliens cannot claim they are exempt from income tax withholding;
- Non-Resident Aliens must request withholding as if they are "Single", even if he or she is married;
- Nonresident Aliens must still provide a SSN, they cannot enter an ITIN on Line 2.
- Only certain nonresident aliens who are residents of Canada, Mexico, South Korea, or India may be eligible to claim an additional allowance for the child tax credit. To claim the child tax credit your child must have an SSN valid for employment issued prior to the due date of your tax return (including extensions).
- Write "Nonresident Alien" or "NRA" in the space below Step 4(c) of Form W-4.

So, while the changes in the tax code and W-4 are championed as creating more transparency and simplifying the accuracy and simplicity of the W-4 form, as with all change it will initially create more confusion and panic, just like Y2K. But don't worry, 2020 is just the beginning to another new decade.

What the
W-4 is that?
Answers to
Your
Questions
about the
New W-4