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Some Employees May Want to Adjust Their W-4s Under the New Withholding Tables

The new 2009 income tax withholding tables issued to implement the Making Work Pay Credit (MWPC) may place some taxpayers in a slightly “underwithheld” situation by the end of the year. In particular, married couples with both spouses earning wages and individuals working multiple jobs at one time may want to adjust their Forms W-4 to have more withheld.

The new tables, compared with those originally in place for 2009, will generally decrease federal income tax withholding by the end of the year by \$400 for single individuals and \$600 for married individuals. The differential may be less for lower-paid workers. In addition, the differential is phased out as the combination of wages and withholding allowances suggests a modified adjusted gross income (MAGI) of at least \$75,000 for single individuals (\$150,000 for joint filers), disappearing completely at a MAGI of \$95,000 (\$190,000 for joint filers).

So, while the MWPC to be claimed on the 2009 personal income tax return caps at \$800 for a couple filing jointly, the new withholding tables may “give” them \$600 each, if they each earn wages, or \$1,200, between April 1 and the end of the year (slightly more if the new tables are implemented “as soon as possible,” as suggested by the IRS). This also means that a married person with a non-working spouse will have \$600 less in withholding but be entitled to a credit of \$800 on his or her tax return.

An individual who works two jobs concurrently may have a reduction in withholding, up to \$400, at each job. However, he or she will be entitled to a credit of no more than \$400 on the 2009 personal income tax return. This problem does not arise for someone who moves from one single job to another single job (no matter how many times) between April 1 and the end of the year.

Why is this happening?

The credit is supposed to be the lesser of (1) 6.2% of earned income or (2) \$400 for single individuals and \$800 for joint filers. It could have been delivered by carving \$8,603 out of the current 10% withholding tax bracket (\$17,206 for married

taxpayers) and taxing it at 3.8% (10% less 6.2%). The reduction in withholding between April 1 and the end of the year would have been \$400 for singles and \$800 for married persons. Of course, there would also have to have been an extra 6.2% tax on a similar amount of wages in a higher earnings bracket to phase out the withholding reduction for those whose MAGI disqualifies them from the credit. That was not done, so the credit is delivered correctly for only the simplest situations.

Nonresident aliens, dependents, pensioners

After the new withholding tables were issued, APA reminded the IRS that they needed to provide new guidance on withholding from nonresident aliens (NRA). They are not eligible for the MWPC, but the new withholding tables would have reduced their withholding as if they were. We told the IRS that they should adjust the table of amounts to be added to NRA wages for withholding calculations. It is as integral to the withholding process as the value of a withholding allowance. The IRS addressed this when they issued Pub 15-T (www.americanpayroll.org/members/Forms-Pubs/#annual). If you implement that table, no W-4 adjustments should be necessary for NRAs.

Another group of taxpayers not eligible for the MWPC are those who may be claimed as a dependent on someone else's tax return. Of course, payroll professionals have no way of knowing whether their employees fall into that category. Some of these taxpayers may want to ask for additional withholding (e.g., \$400 divided by the number of pay dates remaining in the year). However, if a dependent's wages are low, he or she may not see a full \$400 or \$600 reduction in withholding anyway – or any reduction, if claiming exemption from withholding.

Finally, while the MWPC applies to “earned income,” the new withholding tables are also used for withholding from pensions, which are not “earned income.” So, pensioners earning less than the threshold MAGI amounts may have \$400 or \$600 less withheld, even though this income is not eligible for the credit. ■

Stimulus Restores Child Support Funding, But Will It Save Jobs?

The American Recovery and Reinvestment Act of 2009 includes a provision unraveling a law that has had child support enforcement advocates tied up in knots for four years.

The Deficit Reduction Act of 2005 cut federal child support funding to states. The cuts went into effect in 2007

and affected state budgets in 2008. For some states, the federal funding had made up a third of their agency budgets. No business can go through a cut of that magnitude without cutting personnel. Some county child support agencies cut a quarter of their staffs.

“Some APA members make calls to child support agencies on a daily basis to take care of problems with child support,” says Bill Dunn, APA Manager of Government Relations. “Our hope and expectation is that restoring the funds will allow states to maintain a high level of customer service and restore staff if that is necessary.”

Some of the reasons APA members give for calling child support agencies include:

- missing or truncated SSNs, for the employee or children;
- determining the address to which the payment is to be sent;
- determining which order is to be followed when multiple orders are issued for the same employee and child;
- whether to withhold from lump sum payments; and
- issues relating to medical support coverage.

These are not issues that can be resolved through an automated voice response system. Recently, callers have sometimes suffered long waits to speak to agency personnel. Employees have also had trouble resolving issues, which

creates an entirely different concern for employers, as these employees often have to resolve problems on company time.

“Over the past couple of years,” Dunn said, “I made a number of visits to Capitol Hill to talk with representatives, senators, and their staffs about restoring this funding. And for years the answer was no. There were technical issues, or there were other priorities, or there was a problem finding a bill in which to incorporate the language. Finally, legislators began to think of child support as a stimulus item. It is, after all, the number one source of income keeping children out of poverty.”

Whether the restoration of funding results in child support professionals being rehired is yet to be known and will undoubtedly vary from state to state and county to county. A spokesperson for the Summit County (Ohio) prosecutor’s office, which oversees the county’s child support collections, told APA that many counties have been “learning to do more with less.” For states and counties running in the red, the money might be a way to get back in the black. ■

OK to Reduce Tax Deposits by Amount of COBRA Credit

You may reduce your federal employment tax deposits by the amount of the credit to which you are entitled for the new COBRA subsidy under the American Recovery and Reinvestment Act of 2009, but it has to be handled carefully. This and many other issues surrounding the COBRA credit are being discussed in weekly meetings among IRS, APA, other employer groups, and employers. Much has been resolved, and the IRS is still working on answering many of our questions (see “[Inside Washington](#)” for February).

Reduce tax deposit amounts, but don’t delay deposits

An employer may reduce its tax deposits by an amount equal to the 65% COBRA premium subsidy, but only after it has received the 35% premium payment from the individual. The IRS has enlisted APA’s help in creating some examples involving tax liabilities, COBRA credits, and proper deposits, and plans to post them to its website soon.

Here is an example that was presented to the IRS at a recent meeting: An employer accumulates a tax liability of \$100,000, which is normally due to the IRS on the next business day. If the employer has a \$5,000 COBRA subsidy credit to apply to this deposit, resulting in a net liability of \$95,000, does the next-day deposit rule still apply? The IRS said yes.

If a COBRA credit is more than an employer’s tax liability for a deposit period, however, then the employer may skip that deposit and apply any excess credit to a future deposit.

The IRS has a “federal tax deposit alert system” that expects deposits from employers based on prior deposit frequency. The IRS wants to know if employers are getting “false positive” contacts through this system due to the application of COBRA credits against deposit liabilities. If this happens to you, please send an e-mail to smezistrano@americanpayroll.org.

Leave the EFTPS accounting blank

When an employer or bulk processor makes a deposit using the Electronic Federal Tax Payment System (EFTPS), it is asked for the component tax amounts for federal income, social security, and Medicare. However, EFTPS does not have a line to indicate a reduction in a deposit for the COBRA

subsidies. So, an employer or processor in such a situation would never be able to make the component amounts balance to the total deposit. IRS recommends you leave the component accounting lines blank.

While you would be prevented from making your deposit if the component amounts don’t balance to the total deposit, your deposit will be accepted if you leave those lines blank.

Confusion regarding Form 941 Line 12b

Line 12b on the new Form 941 asks you to “Enter the total number of individuals provided COBRA premium assistance payments reported on line 12a.” An example was posed in which a former employee was paying 35% of the premium to cover himself, his spouse, and his two children. The IRS was asked whether that should account for one person on Line 12b or four persons. The IRS is not sure yet.

The instructions might lead you to think it refers only to the former employee. However, in the COBRA credit guidance on IRS’s website, the following sentence appears: “An assistance-eligible individual can be any COBRA qualified beneficiary associated with the related covered employee, such as a dependent child of an employee.”

W-2 reporting of COBRA subsidies?

Individuals with modified adjusted gross income above certain amounts will have to repay the federal government for any COBRA assistance they received. The assistance will be added to their tax liability when they file their personal income tax returns.

It seems likely that the IRS will require the organization that took a COBRA credit on its 941 to issue an information statement to the individual to whom they provided the subsidy and took a credit. This should prompt the individual to report the assistance on his or her personal income tax return.

APA has suggested to the IRS that organizations should have the choice of reporting this on either a Form W-2 (for example, in Box 12 with Code CC) or a 1099. Depending on where an employer stores the subsidy information, one form may be more convenient than the other. Also, a COBRA discount could be provided for an employee who has been purged from the payroll system or for whom there would be no other reason to issue a W-2. In such a situation, a 1099 might be more efficient. ■