

AMERICAN PAYROLL ASSOCIATION

August 28, 2019

Mr. Victor Aledo
Supervisory Tax Law Specialist
Individual and Specialty Forms and Publications
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224
WI.W4.Comments@IRS.gov

Re: Comments on the Second Early Release Draft 2020 Form W-4 and Publication 15-T

Dear Mr. Aledo:

The American Payroll Association (APA) recognizes that the Internal Revenue Service intends payroll software developers to use the Second Early Release Draft 2020 Form W-4, *Employee's Withholding Certificate*, and employer instructions under new Publication 15-T, *Federal Income Tax Withholding Methods*, for the calculation of federal income tax withholding beginning January 1, 2020. In addition, APA greatly appreciates the changes made to the form. Below are some additional comments for your consideration.

SECOND EARLY RELEASE DRAFT 2020 FORM W-4

2020 Form W-4 Step 2 and General Instructions – Your Privacy (Page 2): Step 2 on the form itself reads, “Step 2: CAUTION: If you have privacy concerns, choose (a) or (b)....” The General Instructions read, “Your Privacy: If you want additional withholding and are concerned about your privacy in Steps 2 and/or 4(a), you may check the box in Step 2(c) or enter an additional amount you want withheld per pay period in Step 4(c).” These instructions do not match in that the “caution” does not provide any information on checking the box in Step 2(c). Please clarify the intention with these two different instructions.

General Instructions – Purpose of Form (Page 2): The first sentence reads “Complete this withholding allowance certificate....” The word “allowance” should be removed to reflect the new title, *Employee's Withholding Certificate*.

General Instructions – Purpose of Form – Exemption from Withholding (Page 2): The revised instruction reads, “To claim exemption from withholding, certify that you meet

both of the conditions above by writing ‘Exempt’ on Form W-4 in the space below Step 4(c)...” These instructions will confuse both employees and employers. First, the form itself does not indicate a space or line for writing “Exempt.” For employees that do not read the General Instructions, they will not see any information regarding what to do if they do not owe federal income tax. Second, even when reading the instructions, a blank space is not intuitive for entering information. For large employers with thousands of exempt employees this is a significant burden.

APA understands the desire to “declutter” the form and to ensure that only employees who actually are exempt from federal income tax withholding are claiming exempt. In addition, the instructions in Publication 15-T are extensive. However, because there is no indicator for exempt on the form itself, APA members are concerned about an increase in employee inquiries regarding how to file exempt. APA does not believe that a form or the tax tables will deter employees who believe they qualify to be exempt.

In addition, there is a potential conflict in the IRS’s instructions. Publication 15-T (page 2) explains that employees should write “Exempt” in the space below Step 4(c) and that software developers should add a field for employees to claim “Exempt” in Step 4(c). However, Question 10 in the IRS’s Frequently Asked Questions says that employers should not accept altered Forms W-4. Hand writing the word “Exempt” on the form or an electronic version that adds a field not on the form, may appear to employers as an alteration, despite the instructions.

APA requests that the Step 4(d) Exemption and related instructions be added back into the form. If the IRS decides not to take this approach, at minimum, Question 10 should be rewritten to explain that the new method for claiming “Exempt” is not an alteration of the form.

Specific Instructions – Step 2 (Page 2): In the second paragraph, new language reads, “The standard deduction and tax brackets will be divided equally between the two jobs.” This replaces, “The more different the pay is at the two jobs, the more overwithholding will occur.” APA does not believe that employees will know what it means to split the standard deduction and tax brackets nor how that will affect their withholding. What does it mean to divide a tax bracket equally? More of an explanation and an example may help.

Specific Instructions – Step 2 (Page 2): On the draft 2020 Form W-4 in Step 2, references to “household” have been removed. However, in the second paragraph of the instructions and the CAUTION item underneath it, there are still references to “household.” For employees who read the instructions, the reference to household is misleading. There may be multiple jobs within the employee’s household that are not contemplated on the tax

return. For example, income earned by grown children who live in their parents' household is not included on the parents' tax return. The grown children must file their own returns. If an employee reads the instructions to include the grown children's income from their jobs in the employee's federal income tax withholding estimate, the employee would be significantly overwithheld. Perhaps it would be better to refer to more than one job for the individual or the individual and spouse combined.

Multiple Jobs Worksheet (Pages 3 and 4): The language and number in the "Note" has changed from "If both jobs have annual wages of more than \$99,999..." to "If more than one job has annual wages of more than \$99,000..." However, the tables on Page 4 continue to have a final column with a maximum of \$99,999. While APA appreciates the new language recognizing three or more jobs, the tables should be adjusted accordingly.

SECOND EARLY RELEASE DRAFT PUBLICATION 15-T

2020 Form W-4 (Page 2): Still missing from the instructions is how to treat employees hired in 2020 who do not submit a 2020 Form W-4 or employees who claimed exempt from withholding in 2019 and do not submit a 2020 Form W-4 claiming exempt by February 18, 2020. The IRS's Frequently Asked Questions say to treat such employees as single without any adjustments and explains that "[t]his means that a single filer's standard deduction with no other entries will be taken into account in determining withholding." The FAQ also says that the Treasury Department anticipates issuing guidance on this approach. An example in the instructions would be helpful.

Withholding Adjustment for Nonresident Alien Employees (Pages 2 and 3): While the instructions tell employers with electronic Form W-4 systems to provide a field for nonresident aliens (NRAs) in order for employees to enter their NRA status, there are no instructions on the Form W-4 or in Publication 15-T telling NRAs where to note their NRA status on the printed 2020 Form W-4. In addition, the example on page 3 explaining NRA withholding procedures uses a 2019 Form W-4. An example is not provided when using a 2020 Form W-4.

Worksheet 3. Employer's Withholding Worksheet for Wage Bracket Method Tables for Manual Payroll Systems With Forms W-4 From Before 2020, Step 2 (Page 11): The Step 2 heading should read, "Figure the final amount to withhold" rather than "Figure the Tentative Withholding Amount," because Line 2(b) is the final withholding amount.

Worksheet 4. Employer’s Withholding Worksheet for Percentage Method Tables for Manual Payroll Systems With Forms W-4 From 2020 or Later (Page 16): The percentage tables refer to “Single” and should be “Single or Married Filing Separately,” the same as the terms used in the Second Early Release Draft 2020 Form W-4.

Worksheet 5. Employer’s Withholding Worksheet for Percentage Method Tables for Manual Payroll Systems With Forms W-4 From Before 2020 (Page 17):

Step 2 – Delete Line 2(g) because it includes the tax from Line 2(b) twice, once in Line 2(f) and the second time in Line 2(g). The tentative withholding amount is calculated in Line 2(f) when Lines 2(b) and 2(e) are added. Change Line 2(f) to read, “Add line 2(b) and Line 2(e). **This is the Tentative Withholding Amount.**”

Step 3 – The Step 3 heading should read, “**Figure the final amount to withhold**” rather than “Account for tax credits.” This step is for adding additional withholding, not accounting for tax credits.

Step 3 – After deleting Line 2(g), as noted above, change Line 3(b) to read, “Add lines 2(f) and 3(a). **This is the amount to withhold from the employee’s wages this pay period.**”

IRS WITHHOLDING ESTIMATOR

Well done! The revised withholding calculator under the new name, Tax Withholding Estimator, is significantly improved. APA members tested the estimator and believe that employees will find it much easier to use.

Sincerely,

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