



# TaxNewsFlash

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## Proposed regulations: Federal income tax withholding from employee wages

The U.S. Treasury Department and IRS this afternoon released for publication in the Federal Register a notice of proposed rulemaking (REG-132741-17) as guidance for employers concerning the amount of federal income tax to withhold from employee wages.

The [proposed regulations](#) [PDF 373 KB] (29 pages as published in the Federal Register) implement changes made by the 2017 U.S. tax law (Pub. L. No. 115-97)—the law that is often referred to as the “Tax Cuts and Jobs Act” (TCJA).

Accordingly, the regulations proposed changes to the existing regulations under Code sections 3401 and 3402, and in general would update those regulations to conform to the changes made by the TCJA and other legislation enacted since the regulations were last revised.

The preamble to the proposed regulations further states that these regulations are designed to accommodate the redesigned 2020 Form W-4, *Employee’s Withholding Certificate*, and related wage withholding tables and computational procedures established by the IRS and reflected in Publication 15-T, *Federal Income Tax Withholding Methods*.

According to a related IRS release—[IR-2020-28](#)—the proposed regulations do not require employees to furnish a new Form W-4 solely because of the redesigned Form W-4. The IRS release further explains:

- Employees who have a Form W-4 on file with their employer from years prior to 2020 generally will continue to have their withholding determined based on that form.
- The redesigned Form W-4 no longer uses an employee’s marital status and withholding allowances (that were tied to the value of the personal exemption) because of changes made by the TCJA, employees can no longer claim personal exemptions. Instead, income tax withholding using the redesigned Form W-4 will generally be based on the employee’s expected filing status and standard deduction for the year.

- The Form W-4 is also redesigned to make it easier for employees with more than one job at the same time or married employees who file jointly with their working spouses to withhold the proper amount of tax.
- Employees can choose to have itemized deductions, the child tax credit, and other tax benefits reflected in their withholding for the year.
- Employees can choose to have an employer withhold a flat-dollar extra amount each pay period to cover, for example, income they receive from other sources that is not subject to withholding.
- Under the proposed regulations, employees now also have the option to request that employers withhold additional tax by reporting income from other sources not subject to withholding on the Form W-4.
- The proposed regulations also address a variety of other income tax withholding issues. For example, the proposed regulations provide flexibility in how employees who fail to furnish Forms W-4 are to be treated. Starting in 2020, employers must treat new employees who fail to furnish a properly completed Form W-4 as single taxpayers, and withhold using the standard deduction and no other adjustments (this differs from the pre-2020 treatment that required employers in this situation to withhold as if the employee was single and claiming zero allowances).
- The proposed regulations provide rules on when employees must furnish a new Form W-4 for changed circumstances, update the regulations for the lock-in letter program, and eliminate the combined income tax and FICA (Social Security and Medicare) tax withholding tables.

The proposed regulations were published in the Federal Register on February 13, 2020. Comments and requests for a public hearing are due by April 13, 2020.

The purpose of this report is to provide text of the proposed regulations.

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