Payroll Insights

Employment tax news to guide you now and for the future

January 2024

John's *fresh take*: Happy New Year from the KPMG Employment Tax practice

Another year is behind us and most payroll professionals are in the midst of their 2023 year-end. As we look at closing 2023 and address payroll changes that may be affecting 2024, we want to wish everyone a Happy New Year and look forward to working with you in this coming year. The KPMG Employment Tax Practice has had a busy year, growing our group and assisting our clients with a host of employment tax needs. We will strive in 2024 to continue to bring you updates as they occur, both federal and state and keep you abreast of any issues that may affect you and your employees. Happy New Year and our hopes for a smooth year-end!

Federal updates

IRS announced new voluntary disclosure program for ERC

The IRS announced a new voluntary disclosure program for taxpayers to resolve refunds or credits for questionable employee retention credit (ERC) claims. KPMG has provided a Tax News Flash that will address this recent guidance on the new program designed to alleviate some of the backlog on the yet unprocessed Forms 941-X.

The announcement published by the IRS explains taxpayer eligibility criteria, terms, and procedures for taxpayers electing to participate in the voluntary disclosure program.

Please reach out to your KPMG employment tax contacts if you have any questions regarding this program or ERC claims you may have submitted.

The Employee Retention Credit continues to stymie the IRS

On December 6, 2023, the IRS issued IR-2023-230 discussing certain steps to address claims related to the Employee Retention Credit. In particular, the IRS is sending an initial round of more than 20,000 letters to taxpayers notifying them of disallowed ERC claims. IRS is disallowing claims to entities that did not exist or did not have paid employees during the period of eligibility to prevent improper ERC payments from being made to ineligible entities.

The IRS is continuing their scrutiny of ERC claims in response to the heavily marketed campaigns that have targeted small businesses and other organizations that have yet to claim the credit. The 2020 statute lapses in April of 2024 and the IRS mailing is the latest in an expanded compliance effort that includes a special withdrawal program for those with pending claims who realize they may have filed an inaccurate tax return.

The IRS has also stated that prior to year-end, a separate voluntary disclosure program will be unveiled allowing those who received questionable payments to come in and avoid future IRS action.

These actions are in response to a review the IRS conducted this fall where they determined that a large block of taxpayers had filed claims yet did not meet basic criteria for the credit. Starting the first week of December, taxpayers who are ineligible for the credit began receiving copies of Letter 105 C, Claim Disallowed.

Per the IRS Commissioner Danny Werfel, "As we continue our audit and criminal investigation work involving the Employee Retention Credits, we continue to urge people who submitted a claim to review the rules with a trusted tax professional. If they filed an inaccurate claim, we urge them to consider withdrawing their pending claim or use the upcoming disclosure program to repay improper refunds to avoid future action."

Form 941 and 941X backlog continues due to moratorium on processing

As of December 7, 2023, the IRS had 508,000 unprocessed Forms 941. If you filed electronically and received an acknowledgement, you don't need to take any further action other than promptly responding to any requests for information. These tax returns are processed in the order received.

As of December 6, 2023, the total inventory of unprocessed Forms 941-X was approximately 1.03 million some of which cannot be processed until the related 941s are processed.

Business standard mileage rate announced

The IRS announced the business standard mileage rate (Notice 2024-8)will increase 1.5 cents to 67 cents per mile.

New high of 780,000 registrations submitted for visas

The USCIS is pursuing an overhaul of the visa lottery process after employers have submitted enough petitions for H-1B specialty occupation visas to reach the annual limit of 85,000 for fiscal year 2024.

USCIS received more than 780,000 employer registrations for the visas this year, with more than half of them submitted on behalf of workers with multiple registrations. According to USCIS, the jump in submissions from previous years—in particular for workers with multiple registrations—led the agency to highlight concerns about the current visa process.

A lottery is held after the March registration deadline to select which employers can move ahead with petitions for the visas, which are most heavily used for tech occupations.

Proposed regulations released in October 2023 would overhaul the H-1B lottery system by basing selections on each individual beneficiary, not the total number of registrations. That change would give workers an equal chance of being selected in the lottery process, the agency said. USCIS has also opened fraud investigations into alleged efforts to cheat the lottery that could lead to denial of petitions or referrals to law enforcement.

Revisions to the 2024 Form W-4R

The new release of the 2024 Form W-4R, *Withholding Certificate for Nonperiodic Payments and Eligible Rollover Distributions*, includes the tax rate tables in the instructions. In addition, the new 2024 W-4R lists out the payments that are not eligible rollover distributions.

Form 1099 news:

Revised Instructions for Forms 1099-MISC and 1099-NEC

A new revision of the instructions for Forms 1099-MISC and 1099-NEC was released Dec. 12 by the Internal Revenue Service. The new revision has a January 2024 revision date and addresses the reduction of the e-filing thresholds in effect starting in 2024.

Further Delay of Form 1099-K reporting threshold

The IRS released an advance version of Notice 2023-74 announcing that calendar year 2023 will be regarded as a further transition period for purposes of IRS enforcement and administration with respect to the lowering, under the American Rescue Plan Act of 2021, of the de minimis threshold for reporting on third party settlement organizations (TPSOs) under section 6050W(e) on Form 1099-K, from amounts in excess of $20,000 on 200 or more transactions to any payments made to a participating payee that exceed a $600 threshold, regardless of the number of transactions.

It is important to note, however, that if a TSPO imposed backup withholding on any payments to participating payees during 2023, it must still file a Form 945, as well as Forms 1099-K to both the IRS and the participating payee.

The IRS previously delayed the new $600 Form 1099-K reporting threshold for TPSOs in Notice 2023-10.

The IRS also announced in a related IRS release—IR-2023-221—that it is planning for a $5,000 threshold for tax year 2024 to phase in implementation of the $600 reporting threshold. The IRS also released Fact Sheet 2023-27 which contains more details about the announcements.

State news

2024 SUTA rates

Listed below are the 2024 state unemployment insurance taxable wage bases. States with increases are indicated with a green dot.

Alabama	$8,000
Alaska	$49,700 ●
Arizona	$8,000
Arkansas	$7,000
California	$7,000
Colorado	$23,800 ● Wage base will increase to $27,200 in 2025 and $30,600 in 2026.
Connecticut	$25,000 ● Wage base will be adjusted annually beginning in 2025.
Washington D.C.	$9,000
Delaware	$10,500
Florida	$7,000
Georgia	$9,500

Hawaii*	$56,700 Hawaii enacted an Unemployment Insurance Technology Special Fund Tax of 0.01% for all employers.
Idaho	$49,900
Illinois	$13,271
Indiana	$9,500
Iowa	$38,200 ●
Kansas	$14,000
Kentucky	$11,400 ●
Louisiana	$7,700
Maine	$12,000
Maryland	$8,500
Massachusetts	$15,000
Michigan	$9,500
Minnesota	$40,000
Mississippi	$14,000
Missouri	$10,000 ●
Montana	$43,000 ●
Nebraska	$9,000 – $24,000
Nevada	$40,600 ●
New Hampshire	$14,000 ●
New Jersey	$42,300
New Mexico	$30,100
New York	$12,500 ● Wage base will increase to $12,800 in 2025 and $13,000 in 2026; adjusted annually beginning in 2027.
North Carolina	$29,600
North Dakota	$40,800

Ohio	$9,000
Oklahoma	$27,000 ●
Oregon	$50,900
Pennsylvania	$10,000
Rhode Island	$29,700
South Carolina	$14,000
South Dakota	$15,000
Tennessee	$7,000
Texas	$9,000
Utah	$44,800
Vermont	$14,300 ●
Virginia	$8,000
Washington	$68,500 projected ●
West Virginia	$9,000
Wisconsin	$14,000
Wyoming	$30,900 ●

Colorado

The Colorado Department of Revenue (DOR) Dec. 1 issued information on Forms 1099 and W-2G, and income withholding tax requirements for corporate income and individual income tax purposes. FYI Withholding 7 (colorado.gov) The information includes:

1) taxpayers withholding amounts paid and reported on Forms 1099 or W-2G must establish a separate tax account with the DOR for payment;

2) taxpayers must submit a withholding tax return for each period, including a return with zero taxes withheld if applicable;

3) filing frequencies and due dates for each frequency; and 4) taxpayers may submit withholding payments electronically through Electronic Funds Transfer (EFT), and those paying over $50,000 of withholding tax annually are required to file using EFT.

Minnesota: Bloomington amends paid sick leave

Effective 1-1-24, the city of Bloomington amended its paid sick leave (PSL) ordinance, called Earned Sick and Safe Time. The amendment helps align the ordinance with state law. The definition of "family member" was expanded, and the distinctions between business sizes was removed. Employees may begin accessing benefits as soon as they begin accrual, as the previous 90-day eligibility timeframe was removed. The amendments also add: a provision for frontloading coverage for health concerns regarding a communicable illness and restrictions on requesting documentation from employees. Employers may front load 48 hours of PSL if unused, accrued leave is paid out at the end of the year, or alternatively front load 80 hours with no payout.

Ordinance No. 2023-24, L. 2023

Get to know one of our Employment Tax professionals: Mindy Mayo

Mindy is a Managing Director in KPMG's Silicon Valley office. She has over 30 years of employment tax experience and has assisted clients through a myriad of payroll issues encountered during a company's life cycle.

Mindy has worked with companies of all sizes, assisting with employment tax matters from start of business through branch or company closure. She began her career as a payroll tax auditor with the State of California, Employment Development Department, paving the way for her future as a payroll consultant.

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