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Don't miss this month's insights—Don't miss these employee year-end notice requirements

Top stories

2023 employment tax year in review

During our December 7, 2023, webcast, *2023 employment tax year in review*, panelists discussed numerous federal, state and local topics to consider for year-end 2023 and 2024.

You can download the webcast slide deck [here](#).

The replay of the webcast, once available, will be posted [here](#).

Ernst & Young LLP's 2023 payroll year-end checklist

From tax filing to taxability, there is so much to consider when closing the year and starting anew, and, with federal, state and local rules constantly changing, preparing a year-end payroll checklist is no simple task. To get you started, we have compiled a sample checklist of items to consider for 2023 and 2024, and state charts to guide you through the federal and state Form W-2 and electronic filing requirements that apply.

Our 2023 payroll year-end checklist includes:

- A sample year-end checklist
- 2024 federal holidays
- 2023 federal Forms W-2/1099 electronic filing requirements
- 2023 state Form W-2 filing requirements
- Year-end employment tax reporting compliance

—[Download the 2023 year-end checklist](#)

US employment tax rates and limits

Our 2023 edition of US employment tax rates and limits includes, as of November 25, 2023, the following:

- Social Security wage base for 2023
- Qualified pension plan limits for 2022 and 2023
- Health Savings Account limits for 2022 and 2023
- Fringe-benefit inflation adjustments and Form W-2 penalties for 2023
- Federal mileage rates and luxury vehicle limits for 2023
- Per diem rates under high-low substantiation method for 2023
- 2021 and 2022 FUTA credit reduction
- State unemployment insurance wage bases and tax rates for 2023
- Disability and paid family leave insurance wage base and rates for 2023
- Federal income tax withholding for 2023
- State income tax withholding tables, supplemental withholding, and the highest withholding tax rates for 2023

—[Download the latest report](#)

Federal developments

IRS issues new mileage rates for 2024

Effective January 1, 2024, the business standard mileage rate for use of a car (including vans, pickup trucks and panel trucks) increases from \$0.655 to \$0.67, and the rate for medical and relocation mileage decreases from \$0.22 to \$0.21. Mileage related to charity is set by law and remains at \$0.14 per mile.

—[Read more about this development in EY Tax Alert 2023-2087](#)

State income tax withholding

New York ALJ rules state's convenience of the employer rule applies to work from home days during the COVID-19 pandemic

In *Matter of Zelinsky*, an Administrative Law Judge (ALJ) for the New York Division of Tax Appeals ruled that a nonresident's wages from his New York employer earned while he worked remotely during the COVID-19 pandemic were properly allocated to New York State (NYS) under the state's "convenience of the employer" rule. The ALJ also found the taxpayer had a virtual presence in NYS when hosting classes and meeting with students using a web conferencing platform.

—[Read more about this development in EY Tax Alert 2023-2041](#)

State unemployment insurance

Colorado announces new definition of taxable wages for paid family and medical leave insurance

The Colorado Department of Labor and Employment (Department) [announced](#) that, effective January 1, 2024, a new definition of taxable wages will apply for paid family and medical leave insurance (PFML) purposes.

—[Read more about this development in EY Tax Alert 2023-2005](#)

2024 state disability, paid family and medical leave and long-term care insurance wage base and rates

Six jurisdictions (California, Hawaii, New Jersey, New York, Puerto Rico and Rhode Island) operate state disability insurance (SDI) programs. Another 17 jurisdictions (California, Connecticut, Colorado, Delaware, District of Columbia, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, Oregon, Rhode Island, Vermont and Washington) now have, or soon will have, paid family and medical leave (PFML) insurance programs. Washington is currently the only jurisdiction with a long-term care (LTC) insurance program.

—[Read more about this development in EY Tax Alert 2023-2103](#)

A preliminary look at the 2024 state unemployment insurance taxable wage bases as of December 20, 2023

State unemployment insurance trust funds are largely financed by employer contributions (in Alaska, New Jersey and Pennsylvania employees also make contributions). States are required to maintain a SUI taxable wage base of no less than the limit set under the Federal Unemployment Tax Act (FUTA).

—[Read more about this development in EY Tax Alert 2023-2106](#)

Bill watch (tracking the status of legislation proposed in 2023)

Alabama

HB 217	Status: Passed House and Senate, 6-6-2023. Became law 6-6-2023 (See Tax Alert 2023-1282)	Topic: Wages subject to state income tax
Exempts overtime pay for hours worked over 40 hours per week from state income tax.		

Alabama

SB 65	Status: Read second time in House of Origin, 3-21-2023; indefinitely postponed, 5-31-2023 (legislature adjourned 6-14-2023) Bill did not pass before session adjournment	Topic: Local tax rate control, make clear local tax applies only for work carried on within the locality (convenience of the employer rule)
<p>Would have done the following: reduce any municipal occupational license tax greater than 1% based on an annual reduction in the tax until the tax would be 1%; provide that any occupational license tax levied by any municipality does not apply to any person performing an occupation in the police jurisdiction of the municipality or on any property annexed into the municipality after January 1, 2023; provide for a referendum under certain conditions in certain counties in which two or more municipalities levied an occupational tax greater than 1% on January 1, 2023; prohibit a municipality from levying a new occupational license tax or increasing the rate of any existing municipal occupational license tax; provide for certain exceptions from any occupational taxes for certain temporary workers and for severance pay; specify the power of a municipality pursuant to Section 11-51-90 of the Code of Alabama 1975, to license an exhibition, trade, business, vocation, occupation, or profession only within the corporate limits and jurisdiction of the municipality, provide for refunds and collections of the license fees and taxes, and provide that these provisions are retroactive and declaratory of existing law.</p>		

Georgia

SB 160	Status: Approved by Governor, May 1, 2023 (See <i>EY Tax Alert 2023-1258</i>)	Topic: Unemployment insurance tax rates
<p>Changes the unemployment tax rate for new employers to 2.64% through 2026, increasing to 2.7% after 2026. Institutes a 0.06% administrative assessment tax in effect from 2024 through 2026 that applies to new employers and employers with an experience rating; however, reimbursing employers and those employers paying the minimum or maximum unemployment tax rate are subject to the assessment. The administrative assessment is not reported as contributions on the Form 940 and is repealed entirely effective January 1, 2027.</p>		

Illinois

HB 3129	Status: Approved by Governor, August 11, 2023	Topic: Equal Pay Act wage transparency
<p>Expands the state's current Equal Pay Registration Certificate process by requiring that Illinois employers with more than 15 employees include pay scale and benefits information in all open job postings.</p>		

Indiana

SB 419	Status: Approved by Governor, May 4, 2023 (See <i>EY Tax Alert 2023-0871</i>)	Topic: Nonresident income tax, de minimis exemption
<p>Simplifies individual income tax filings and reduces employers' withholding and reporting burdens related to employees working less than 30 days in Indiana.</p>		

Kansas

HB 2420	Status: Referred to House Committee on Taxation, 2-15-2023 (legislature adjourned) Bill did not pass before session adjournment	Topic: Nonresident income tax, de minimis exemption
<p>Would have established a 30-day safe harbor before nonresident employees traveling into the state for work duties are subject to income tax in Kansas and their employers to corresponding withholding obligations. This safe harbor would have been available only if the nonresident's work state offered a substantially similar 30-day threshold and related provisions.</p>		

Maine

LD 1638	Status: (legislature adjourned June 21, 2023) Bill did not pass before session adjournment	Topic: State personal income tax rate decrease
<p>Would have reduced the state's individual income tax rates for tax years 2023 and 2024 from 5.8%, 6.75% and 7.15% to 5.2%, 6.3% and 7.05%, respectively. Starting with the 2025 tax year, the rates would have been reduced to 5%, 6% and 7%, respectively.</p>		

Maine

LD 1946	Status: Referred to Committee on Taxation Voted Ought Not to Pass , 5-31-2023 (legislature adjourned June 21, 2023)	Topic: Expand the state personal middle income tax bracket
<p>Would have, effective January 1, 2023, increased the taxable income subject to the 6.75% and 7.15% tax rates.</p>		

Maryland

SB 828	Status: Approved by Governor, 5-3-2023 (See EY Tax Alert 2023-1029)	Topic: Paid family and medical leave insurance
<p>Delays the start date for employer/employee contributions to the state paid family and medical leave insurance plan from October 1, 2023, to October 1, 2024; prohibits a total contribution rate of more than 1.2% to be paid 50% by employers and employees; changes the definition of taxable wages.</p>		

Minnesota

SF 2346	Status: Referred to Taxes, introduction and first reading, 3-1-2023 (legislature adjourned May 22, 2023) Bill did not pass before session adjournment	Topic: Nonresident income tax, de minimis exemption
<p>Would have established a 30-day safe harbor before nonresident employees traveling into the state for work duties are subject to income tax in Minnesota and their employers to corresponding withholding obligations. This safe harbor would have been available only if the nonresident's work state offered a substantially similar 30-day threshold and related provisions.</p>		

Minnesota

HF 442	Status: Introduction and first reading, referred to Taxes, 1-17-2023 (legislature adjourned May 22, 2023) Bill did not pass before session adjournment	Topic: State personal income tax rate increase
<p>Effective retroactive to January 1, 2023, would have established a new tax rate of 10.85% on incomes over \$600,000 for single filers; over \$800,000 for heads of household; and over \$1 million for joint filers. The bill would also have raised the income thresholds for the existing income tax brackets for all filers.</p>		

Minnesota

HF 2	Status: Approved by Governor 5-25-2023 (See <i>EY Tax Alert 2023-1111</i>)	Topic: State paid family and medical leave insurance
<p>Establishes a state paid family and medical insurance program with contributions and benefits beginning January 1, 2026, with employer quarterly wage detail reports starting July 1, 2025. The premium rate is 0.7% for an employer participating in both family and medical benefit programs; 0.4% for an employer participating in only the medical benefit program with an approved private plan for the family benefit program; and 0.3% for an employer participating in only the family benefit program with an approved private plan for the medical benefit program. Contributions are paid up to the Social Security wage limit; however, small employers pay at a lower wage limit based on number of employees. Employers may deduct up to 50% of the contributions from employees' wages.</p>		

Minnesota

SF 3035	Status: Approved by Governor 5-24-2023 (See <i>EY Tax Alert 2023-1088</i>)	Topic: Earned sick and safe leave (ESSL)
<p>Effective January 1, 2024, provides covered employees up to 48 hours of earned ESSL for a variety of purposes. The state ESSL law does not preempt local ESSL laws.</p>		

Montana

HB 447	Status: Approved by Governor, 5-18-2023 (See <i>EY Tax Alert 2023-0919</i>)	Topic: Nonresident income tax, de minimis exemption
<p>Establishes a 30-day safe harbor before nonresident employees traveling to the state for work are subject to income tax in Montana and their employers to corresponding withholding obligations. The provision includes a "key employee" exception for employees who earn over \$500,000 in compensation in the prior year.</p>		

Nebraska

LB 416	Status: Notice of hearing 2-15-2023 (legislature is adjourned) Bill did not pass before session adjournment	Topic: Nonresident income tax, convenience of the employer rule
<p>Would only have imposed the convenience of the employer rule if the employee were present in Nebraska for more than 30 days in the tax year.</p>		

Nebraska

LB 173	Status: Notice of hearing 2-23-2023 (legislature is adjourned) Bill did not pass before session adjournment	Topic: Nonresident income tax, de minimis exemption
<p>Would have established a 30-day safe harbor before nonresident employees traveling into the state for work duties were subject to income tax in Nebraska and their employers to corresponding withholding obligations.</p>		

Nebraska

LB 754	Status: Approved by Governor, 5-31-2023 (See <i>EY Tax Alert 2023-1362</i>)	Topic: Personal income tax decrease
<p>Collapses the current personal income tax brackets to three and lowers the rates in stages over four years starting in 2024.</p>		

New Jersey

AB 4694/ SB 3128	Status: Approved by Governor, 7-21-2023 (See <i>EY Tax Alert 2023-1291</i>)	Topic: Convenience of the employer rule
Provides that, retroactive to January 1, 2023, if another state in which an employee resides imposes tax on the income of an employee who works out-of-state for an in-state employer due to the convenience of the employee, that same rule will apply to a person who works for a New Jersey employer but who resides and works outside of New Jersey at the employee's convenience. This means that if an employee's state of residence determines the source of income of nonresidents by a "convenience of the employer test," and the employee works for a New Jersey employer from a location in the employee's state of residence for the employee's own convenience, then the New Jersey employer is required to include those days as days worked in New Jersey and withhold income tax accordingly.		

New York

SB 5572/AB 6796	Status: Approved by Governor, 9-15-2023	Topic: Salary threshold for exempt employees
Effective March 13, 2024 (180 days from September 15, 2023), raises New York State's salary threshold for salaried-exempt employees from \$900 per week to \$1,300 per week, indexed each year for inflation.		

North Carolina

HB 490	Status: Referred to Committee on Finance, 3-28-2023 Bill did not pass before session adjournment	Topic: Wages subject to state income tax
Would have exempted certain bonuses and overtime pay for hours worked over 40 hours per week from state income tax.		

Pennsylvania (currently impacts Philadelphia)

SB 671	Status: Referred to House finance, 5-5-2023 (legislature adjourns December 31, 2023) Bill did not pass before session adjournment	Topic: Convenience of the employer rule
Would have prohibited imposing the Philadelphia wage tax on nonresidents working for employers within the city if the employee performs all duties or services outside of the city and make clear that the tax could only be imposed for services physically provided by nonresidents within the city.		

South Carolina

HB 3450	Status: Referred to Committee on House Ways and Means, 1-10-2023 (legislature adjourned 5-11-2023) Bill did not pass before session adjournment	Topic: Wages subject to state income tax
Would have exempted certain bonuses and overtime pay for hours worked over 40 hours per week from state income tax.		

Vermont

H 217	Status: Passed by House and Senate, 5/12/2023, House and Senate overrode the Governor's veto, 6-20-2023 (See EY Tax Alert 2023-1338)	Topic: Payroll tax to fund childcare
Requires that, effective July 1, 2024, employers pay a Child Care Contribution of 0.44% of covered wages (0.11% of self-employed income). Allows employers to withhold a maximum of 25% of the contribution from employees' wages.		

This month's insights

Don't miss these employee year-end notice requirements

In addition to the requirement to provide employees with copies of their federal, state and local Forms W-2, there are other annual notices that employers are required to provide to employees. There are also other annual employee communications that employers should consider.

Mandatory annual employee notices

- *Special accounting rule.* Employee notices must be provided to employees by January 31, 2024, if the special accounting rule was used in 2023.
- *Company cars.* Employee notices must be provided to employees by January 31, 2024, if the employer has elected not to withhold federal income tax on the value of the personal use of a company car.
- *Earned income tax credit (EITC).* For federal purposes, employers must provide Form W-2, Copy B to notify employees about their potential eligibility for the federal EITC. Some states and localities require a separate notification about the federal/state EITC (other than Form W-2, Copy B) and/or the federal/state child tax credit. See more information on the federal EITC [here](#).
- *Charitable contributions.* Employers must provide employees with a report of the annual total of charitable contributions paid through payroll deduction. Consider using Form W-2, box 14, for this purpose. See [IRS Publication 1771](#).

Suggested annual employee communications

- *Form W-4/address confirmation.* Ask that employees verify their home address. This is important not only for mailing Forms W-2, but to confirm correct reporting of state wages on Form W-2. Also identify employees who are required to submit a new federal, state or local Form W-4 for 2024 (e.g., claimed exemption from withholding) and request they give you a new form before January 1, 2024.
- *State/local workdays.* To assist employees in completing their state/local income tax returns, consider providing them with a report of the hours/days worked and wages earned in each state and local taxing jurisdiction. This is particularly helpful for New York employees that worked both within and outside the state because New York requires that Form W-2, box 16 (state wages) be equal to Form W-2, box 1 (federal wages). This information will also be helpful

to employees who worked in multiple jurisdictions in the year as support for the wage information provided on the state and local Forms W-2.

View prior editions of *Payroll Month in Review*

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