

# Important 2016 W-2, 1099 & 1095 Changes

(As of March 28, 2016)

## Information Returns (W-2s, 1098s, 1099s, 5498s, etc.)

*Penalties increased*—Higher penalties apply for:

- Failure to file correct information returns by the due date,
- Intentional disregard of filing requirements,
- Failure to furnish information returns, and
- Intentional disregard of payee statement requirements.

The higher penalty amounts apply to returns required to be filed after December 31, 2015 and are indexed for inflation. The new penalty amounts are listed below:

- \$50 per information return if filed correctly within 30 days of the due date; the maximum penalty is \$532,000 per year (\$186,000 for small businesses)
- \$100 per information return if filed correctly more than 30 days after the due date but by August 1; the maximum penalty is \$1,596,500 per year (\$532,000 for small businesses)
- \$260 per information return if filed after August 1, did not file corrections, or did not file required information returns; the maximum penalty is \$3,193,000 per year (\$1,064,000 for small businesses)
- \$530 per information return for intentional disregard with no maximum penalty

*New penalty safe harbor*—Information returns with incorrect dollar amounts may fall under a new safe harbor for certain de minimis errors. The safe harbor applies if no single amount in error differs from the correct amount by more than \$100 and no single amount reported for tax withheld differs from the correct amount by more than \$25. If the safe harbor applies, no correction is required unless the payee elects to have a corrected return issued.

## W-2

*New due date for filing with SSA*—The due date for filing 2016 Forms W-2, W-2AS, W-2CM, W-2GU, W-2VI, W-3, and W-3SS with the SSA is now January 31, 2017, whether filing using paper forms or electronically.

*Extensions of time to file*—Extensions of time to file Form W-2 with the SSA are no longer automatic. For filings due on or after January 1, 2017, one 30-day extension to file Form W-2 may be requested by submitting Form 8809, Application for Extension of Time to File Information Returns, including a detailed explanation of why additional time is needed and signed under penalties of perjury. The IRS will only grant the extension in extraordinary circumstances or catastrophe. This does not affect extensions of time to furnish Forms W-2 to employees.

*Same-sex marriage*—For federal tax purposes, marriages of couples of the same sex are treated the same as marriages of couples of the opposite sex. The term “spouse” includes an individual married to a person of the same sex. However, individuals who have entered into a registered domestic partnership, civil union, or similar relationship that is not considered a marriage under state law are not considered married for federal tax purposes.

## 1042-S - Reprogramming required

*Account-by-account reporting by U.S. financial institutions*—For amounts paid on or after January 1, 2016, a U.S. financial institution or a U.S. branch of a foreign financial institution maintaining an account within the U.S. is required to report payments of the same type of income (as determined by the income code in box 1) made to multiple financial accounts held by the same beneficial owner on separate Forms 1042-S for each account.

*Permanent extension of RIC qualified investment entity treatment under FIRPTA*—“Withholding on Dispositions of U.S. Real Property Interests by Publicly Traded Trusts and Qualified Investment Entities (QIEs)” has been amended to reflect the PATH Act of 2015 which permanently extends the treatment of RICs as qualified investment entities.

*Chapter indicator*—The check boxes used to designate which chapter a withholding agent is reporting under have been consolidated into box 3. Withholding agents must enter either “3” or “4” in this box to indicate the chapter with respect to which the withholding agent is filing a given Form 1042-S.

*Withholding agent’s status codes*—Beginning in 2016, withholding agents must enter both a chapter 3 and chapter 4 status code regardless of the type of payment being made. Also, new status codes have been added under chapter 3 (code 34) and chapter 4 (code 50) for payments made by a foreign branch of a U.S. financial institution.

*Payer status codes*—Beginning for 2016, a payer must include its chapter 3 and chapter 4 status codes in boxes 16d and 16e.

*Treaty claims and limitation on benefits articles*—Beginning for calendar year 2016, withholding agents that are withholding at a reduced rate based on a treaty claim by an entity must include a limitation on benefits code (LOB code) in box 13j for the recipient when they receive documentation establishing the applicable limitation on benefits provision of the treaty. Withholding agents are not, however, required to obtain new documentation unless they are otherwise required to renew such documentation.

*Unique Identifying Number*—Beginning in 2017, withholding agents will be required to assign a unique identifying number to each Form 1042-S they file. This identifying number can be used, for example, to identify which information return is being corrected or amended when multiple information returns are filed by a withholding agent with respect to the same recipient. The unique identifying number cannot be the recipient’s U.S. or foreign TIN. The unique identifying number must be numeric. The length of a given identifying number must be exactly 10 digits. For 2016, withholding agents may choose to provide a unique identifying number in box 13k, Recipient’s Account Number for Forms 1042-S filed for recipients that do not have an assigned account number (such as an indirect account holder).

## 1094 & 1095

*Not yet released*—As of March 28, 2016, IRS has not released the final version of Forms 1095-B, 1094-B, 1095-C, or 1094-C for 2016. Additional information will be provided as it becomes available from the IRS.

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## 1096 - Reprogramming required

*New line 6 check boxes*—Check boxes for Forms 1099-QA and 5498-QA were added to line 6.

*New filing date for Form 1099-MISC*—Form 1099-MISC is required to be filed on or before January 31, 2017 when nonemployee compensation payments are reported in box 7. If nonemployee compensation is reported in box 7 of Form 1099-MISC, box 7 on Form 1096 must be checked.

## 1098 - Reprogramming required

*Mortgage insurance premiums*—Report mortgage insurance premiums paid of \$600 or more in box 5.

*New reporting requirements*—For Forms 1098 issued to payers after December 31, 2016, the address or description of property securing the mortgage, the outstanding mortgage principal as of January 1, 2016, and the mortgage origination date must be reported.

*Form resized*—Due to the additional reporting requirements, Form 1098 has increased in size from a 3 per page to a 2 per page format.

## 1098-T - Reprogramming required

*New reporting requirement*—Educational institutions are only required to report qualified tuition and related expenses actually paid on Form 1098-T. Amounts billed are no longer reported.

*New check box*—A new check box was added to the Student's taxpayer identification no. box. This check box is for the purpose of certifying under penalty of perjury that the filer has complied with the standards for obtaining the student's TIN.

## 1099-B - Reprogramming required

*FATCA filing requirements of certain foreign financial institutions (FFIs)*—An FFI with a chapter 4 requirement to report a U.S. account maintained by the FFI that is held by a specified U.S. person may satisfy this requirement by reporting on Form(s) 1099. Additionally, a U.S. payer may satisfy its chapter 4 requirement to report such a U.S. account by reporting on Form(s) 1099. Beginning in 2016, Form 1099-B is among the Forms 1099 used for such purpose. A new check box was added to Form 1099-B to identify an FFI or U.S. payer filing this form to satisfy its chapter 4 reporting requirement.

*Definition of covered security*—In the instructions for box 1e, the definition of "covered security" has been expanded to include certain debt instruments or options that are specified securities acquired for cash in an account after 2015. This includes variable rate debt instruments, inflation-indexed debt instruments, contingent payment debt instruments, options on debt instruments with payments denominated in, or determined by reference to, a currency other than the U.S. dollar, and options issued as part of investment units.

*Transfer statement information*—In the instructions for "Transfer Statement", the information required in the case of a debt instrument has been expanded to include the last date on or before the transfer date that the broker made an adjustment for a particular item relating to a debt instrument transferred on or after January 1, 2016. Also, a transfer statement is now required for the transfer of a section 1256 option occurring on or after January 1, 2016. For these types of options, in addition to the information required for a non-section 1256 option, a broker must transfer information about the original basis of the option and the fair market value of the option as of the end of the prior calendar year.

*Ordinary income indicator*—An additional check box has been added to box 2 for situations in which some of a taxpayer's gain or loss may be ordinary rather than capital. Up to two boxes in box 2 may be checked: Short-Term and Ordinary or Long-Term and Ordinary are permitted combinations.

*Wash sales, accrued market discount, and collectibles*—Report the amount of accrued market discount, if any, in box 1f. Report the amount of wash sale loss disallowed, if any, in box 1g. The collectibles indicator has been moved to box 12.

## 1099-INT - Reprogramming required

*Reporting bond premium*—Box 12 was added to report bond premium.

## 1099-MISC

*New filing date*—Form 1099-MISC is required to be filed on or before January 31, 2017, when reporting nonemployee compensation payments in box 7. Otherwise, file by February 28, 2017, if filing on paper, or by March 31, 2017, if filing electronically. The due dates for furnishing payee statements remain the same.

*Exceptions to reporting*—New exceptions to reporting on Form 1099-MISC were added: 1) Compensation for injuries or sickness by the Department of Justice as a public safety officer disability or survivor's benefit, or under a state program that provides benefits for surviving dependents of a public safety officer who has died as the direct and proximate result of a personal injury sustained in the line of duty, and 2) Compensation for wrongful incarceration for any criminal offense for which there was a conviction under Federal or State law.

## 1099-OID - Reprogramming required

*Reporting bond premium*—Box 10 was added to report bond premium.

## 1099-QA

*Elimination of residency requirement*—The residency requirement for qualified ABLE Programs has been eliminated.

## 1099-R - Reprogramming required

*FATCA filing requirement check box*—A new check box was added to Form 1099-R to identify a foreign financial institution (FFI) or a U.S. payer filing this form to satisfy its chapter 4 reporting requirement.

*New early distribution exceptions*—Federal law enforcement officers, Federal customs and border protection officers, Federal firefighters, air traffic controllers, nuclear materials couriers, members of the United States Capitol Police or Supreme Court Police, and diplomatic security special agents of the Department of State have been added to the definition of qualified public safety employees eligible for an early distribution exception for distributions made after separation from service in or after the year the employee has reached age 50. These changes are effective for distributions made after December 31, 2015.

*Extension of tax-free distributions from IRAs for charitable purposes*—Tax-free distributions from IRAs for charitable purposes has been permanently extended for distributions made in tax year 2015 and later.

## 5498-QA

*Elimination of residency requirement*—The residency requirement for qualified ABLE Programs has been eliminated.