

# Important 2018 W-2, 1099 & 1095 Changes

(As of May 15, 2018)

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

*Penalties increased*—Higher penalties apply for:

- Failure to file correct information returns by the due date, and
- Failure to furnish information returns.

The higher penalty amounts apply to returns required to be filed after December 31, 2018 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 \$545,500 per year (\$191,000 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 \$1,637,500 per year (\$545,500 for small businesses)
- \$270 per information return if filed after August 1, did not file corrections, or did not file required information returns; the maximum penalty is \$3,275,500 per year (\$1,091,500 for small businesses)

## Information Returns (1096s, 1098s, 1099s, 5498s, etc.)

*New mailing address for Kansas City, MO*—The Kansas City, MO mailing address for paper filed information returns has changed to:

Department of the Treasury  
Internal Revenue Service Center  
PO Box 219256  
Kansas City, MO 64121-9256

*Backup withholding rate change*—The Tax Cuts and Jobs Act lowered the backup withholding rate to 24%.

## W-2

*Leave-based donation programs to aid victims of Hurricanes and Tropical Storms Harvey, Irma, and Maria, and the 2017 California Wildfires*—Under these programs, employees may donate their vacation, sick, or personal leave in exchange for employer cash payments made before January 1, 2019, to qualified tax-exempt organizations providing relief for the victims of Hurricanes and Tropical Storms Harvey, Irma, and Maria, and the California Wildfires that began on October 8, 2017. The donated leave need not be included in the income or wages of the employee. The employer may deduct the cash payments as business expenses or charitable contributions.

*Suspension of exclusion for qualified moving expense reimbursements*—The Tax Cuts and Jobs Act temporarily suspends the exclusion for qualified moving expense reimbursements. However, the exclusion still applies for a member of the US Armed Forces on active duty who moves under a military order to a permanent change of station. This change is effective for taxable years beginning after December 31, 2017, and before January 1, 2026.

*Combat pay of members of the Armed Forces performing services in the Sinai Peninsula of Egypt*—The Tax Cuts and Jobs Act temporarily makes the Sinai Peninsula of Egypt a qualified hazardous duty area. Treat this hazardous duty area as a combat zone for the exclusion from income of certain combat pay and exclusion from wages. For purposes of withholding, this change generally applies to remuneration paid during the period December 22, 2017 through December 31, 2017, and taxable years 2018 through 2025.

*New qualified equity grants*—The Tax Cuts and Jobs Act added a section for “qualified equity grants.” The law also added new Form W-2 reporting requirements for these grants. Employers with employees who have qualified equity grants must report the amount includible in gross income under this section for an event which occurs in the calendar year in box 12 using code GG. Also, employers must report the aggregate amount of income which employees elect to defer under this section as of the close of the calendar year in box 12, using code HH.

## W-2G

*New regular withholding rate*—Effective for taxable years beginning after December 31, 2017, the withholding rate applicable to winnings of \$5,000 or more from sweepstakes, wagering pools, certain parimutuel pools, jai alai, and lotteries (formerly 25%) is now 24%.

*New backup withholding rate*—Effective for taxable years beginning after December 31, 2017, the backup withholding rate applicable to certain winnings where the winner doesn’t furnish a correct taxpayer identification number (formerly 28%) is now 24%.

*Expanded payee identification rules*—Except for a payee of winnings of a state-conducted lottery, a payee of gambling winnings meeting the withholding thresholds from horse racing, dog racing, jai alai, sweepstakes, wagering pools, lotteries, and certain other wagering transactions must present two forms of identification, one of which must include the payee’s photo. A completed and signed Form W-9 is acceptable as the other form of identification. Gaming establishments owned or licensed by a tribal government of a federally-recognized Indian tribe may waive the photo ID requirement for payees who are members of that tribe and present a tribal member identification card issued by the same tribe.

*New rules for determining the amount of the wager for certain gambling winnings*—All wagers placed in a single parimutuel pool and represented on a single ticket are aggregated and treated as a single wager for purposes of determining the amount of the wager with respect to winnings from parimutuel betting on horse racing, dog racing, or jai alai.

Amounts paid with respect to identical wagers are treated as paid with respect to a single wager for purposes of calculating the amount of proceeds from a wager. Two or more wagers are identical wagers if winning depends on the occurrence (or non-occurrence) of the same event or events; the wagers are placed with the same payer; and, in the case of horse races, dog races, or jai alai, the wagers are placed in the same parimutuel pool.

*Continued on back.*

## **1042-S** - *Reprogramming required*

*Changes to withholding rates*—For tax years beginning after December 31, 2017, the rate of withholding by a publicly traded partnership on a distribution of income effectively connected to a US trade or business has changed to 21% for corporate partners and 37% for all other partners. For tax years beginning after December 31, 2017, the rate of withholding by a Qualified Investment Entity on a distribution to a nonresident alien or foreign corporation that is treated as gain from the sale or exchange of a US real property interest by the shareholder has changed to 21%.

*Changes to codes*—To reflect changes made to the chapter 4 regulations regarding US branches of foreign entities that act as intermediaries, chapter 4 status codes have been added for US branches treated as US persons and US branches not treated as US persons. Finally, the LOB Treaty Category code for individuals (code 01) has been removed. Withholding agents making payments to an individual who is claiming treaty benefits should leave Box 13j blank.

## **1096** - *Reprogramming required*

*New forms*—Forms 1098-F, 1099-LS, and 1099-SB were added to the list of forms to be filed on Line 6.

## **1098-C**

*Penalty rate change*— The multiplier for computing a section 6720 penalty has been reduced from 39.6% to 37%.

## **1098-T** - *Reprogramming required*

*Box 2 is now shaded and is no longer used for 2018.*

## **1099-C**

*Student loans discharged on account of death or disability*—Do not report these discharges on Form 1099-C.

## **1099-K**

*Payments made to an offshore account*—For tax years beginning after December 31, 2017, the criteria for a participating payee has been modified to exclude certain payees with only a foreign address. The Payment Settlement Entity is no longer required to file Forms 1099-K solely because payment is made in US dollars to such persons.

## **5498-QA**

*Increased contributions ABLÉ accounts*—Increased contributions may be made to ABLÉ accounts by a designated beneficiary under certain circumstances.

*Rollovers from section 529 accounts*—Under certain circumstances, rollovers from section 529 accounts can be made to ABLÉ accounts.

## **As of June 2018**

- **1098, 1099-DIV**

Although the IRS released a FINAL draft of these forms, it has since indicated these forms will be re-released.

- **1099-R, 5498**

The IRS has yet to release the FINAL forms.