

April 2018

HR News & Best Practices

New Form W-4 and Online Withholding Calculator Released

The Internal Revenue Service (IRS) has released new versions of Form W-4 and its online withholding calculator to help taxpayers check their 2018 tax withholding following passage of the Tax Cuts and Jobs Act in December 2017. The IRS urges taxpayers to use these tools to make sure they have the right amount of tax taken out of their paychecks.

Among other things, the [Tax Cuts and Jobs Act](#) increased the standard deduction, removed personal exemptions, increased the child tax credit, limited or discontinued certain deductions, and changed the tax rates and brackets. If changes to withholding should be made as a result of these changes, the [IRS withholding calculator](#) gives employees the information they need to fill out a new [Form W-4](#). Employees must submit the completed W-4 to their employers.

Check out our section on [Employer Tax Laws](#) for other tax topics of interest.



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Best Practices for Preventing Workplace Harassment

A report from the U.S. Equal Employment Opportunity Commission (EEOC) highlights best practices for employers to prevent and respond to workplace harassment. According to the EEOC report, employers should:

- Foster an **organizational culture** in which [harassment](#) is not tolerated;
- Adopt and maintain a comprehensive **anti-harassment policy** (which prohibits harassment based on any protected characteristic, and which includes social media considerations) and establish **procedures** consistent with the best practices outlined in the report;
- Ensure that any such anti-harassment policy--especially details about **how to complain** of harassment and **how to report** observed harassment--is **frequently communicated** to employees in a variety of forms and methods;
- Ensure that where harassment is found to have occurred, discipline is **prompt and proportionate** to the severity of the infraction. Discipline should be **consistent** and not give or create the appearance of undue favor to any particular employee; and
- Dedicate sufficient resources to **training middle-management and first-line supervisors** on how to respond effectively to harassment that they observe, that is reported to them, or of which they have knowledge or information--even before such harassment reaches a legally-actionable level.

[Click here](#) to read the EEOC report in its entirety.

Information regarding employer responsibilities under federal nondiscrimination laws may be found in our section on [Discrimination](#).

DOL Replaces Guidance on Employee Classification

The U.S. Department of Labor (DOL) has withdrawn its 2014 guidance regarding the meaning and scope of the term "employment relationship" under the federal Fair Labor Standards Act (FLSA) and replaced it with its guidance from 2008. As a result of this change, the DOL no longer advises that "most workers are employees."

Withdrawn 2014 Guidance

In 2014, the DOL issued guidance on how to determine whether an employment or independent contractor relationship exists for purposes of the federal FLSA. The guidance stated, among other things, "Applying the FLSA's definition [of "employ"], workers who are economically dependent on the business of the employer, regardless of skill level, are considered to be employees, and most workers are employees." **Effective immediately, this guidance has been withdrawn.**

2008 Guidance Once Again Effective

The 2014 guidance has been replaced by [guidance](#) from 2008. The 2008 guidance does not contain the statement that "most workers are employees." However, this guidance does include the same "economic realities" test present in the 2014 guidance, under which determination of employee status is made by considering the following factors:

- Whether the work performed is an integral part of the employer's business.
- Whether the worker's managerial skill affects the worker's opportunities for profit or loss.
- The worker's relative investment compared to the employer's investment.
- Whether work performed requires special business skills, judgment, and initiative.
- Whether the worker-employer relationship is permanent or indefinite.
- The nature and degree of the employer's control of the work.

Our [Fair Labor Standards Act](#) section features additional information on employers' responsibilities under the FLSA.

2018 HSA Contribution Limit Decreased for Certain Individuals

The Internal Revenue Service (IRS) has announced that the 2018 annual limitation on health savings account (HSA) contributions by **individuals with family coverage under a high deductible health plan (HDHP)** is now **\$6,850**. This limit was previously announced as \$6,900, but has been revised downward due to an inflation adjustment provision in the Tax Cuts and Jobs Act. The 2018 annual limitation on HSA contributions by an individual with self-only coverage under a HDHP remains **unchanged at \$3,450**.

[Click here](#) to read the IRS announcement. For information on how to properly adjust employer or employee contributions to comply with the newly announced limit, please [contact the IRS](#).



Visit our [Fair Labor Standards Act](#) section for additional information on employers' responsibilities under the FLSA.



[Click here](#) to read the IRS announcement.

Counting Employees Vital to ACA Compliance

Employers are reminded that it is important to know how many full-time employees they have in order to ensure compliance with the employer shared responsibility ("pay or play") provisions of the Affordable Care Act, which apply to [applicable large employers](#) (ALEs).

Determining ALE Status

Whether an employer is considered an ALE for a particular calendar year depends on the size of its workforce during the preceding calendar year. **For example, employers will use information about the size of their workforce during 2017 to determine if their company is an ALE for 2018.** Employers with an average of **at least 50 full-time employees** in the preceding calendar year—including full-time equivalent employees—are generally deemed ALEs for the current calendar year.

Identifying Full-Time Employees

In general, for purposes of pay or play:

- A **full-time employee** is, for a calendar month, an employee who is employed on average **at least 30 hours of service per week**. However, 130 hours of service in a calendar month is treated as the monthly equivalent of at least 30 hours of service per week.
- A **full-time equivalent employee** is a combination of employees, each of whom individually is not a full-time employee, but who, in combination, are equivalent to a full-time employee.

For additional rules on determining who is a full-time employee, including what counts as an hour of service, [click here](#).

To learn more about pay or play, please visit our [Health Care Reform](#) section.



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The HR Resource Every Business Needs

Whether you have 5 employees or 500, HR360 provides easy-to-understand guidelines that will help you remain compliant. With HR360, you'll find easy, step-by-step guidance on how to comply with a broad range of laws, from Health Care Reform, COBRA, and FMLA to how to interview, hire, and terminate employees. [Click here to learn more!](#)



How to Conduct a Job Interview

The most important tasks in conducting a job interview are preparing questions and evaluating candidate answers. However, there are other key items you can attend to that will ensure a successful job interview. Learn the action steps you need to know by watching the video below.



For more information on job interviews, check out our [Recruitment & Hiring](#) section.

Marshall & Sterling Insurance will continue to provide you with updates and information regarding important issues. Should you have specific questions or need more information, please contact us.

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