



# W-2 Guide For calendar year 2009

## For preparing W-2s and other year-end forms and returns

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For payroll tax deposit requirements, please see IRS Publication 15 (Circular E), “Employer’s Tax Guide,” and Wisconsin Department of Revenue Publication W-166, “Wisconsin Employer’s Withholding Tax Guide,” or the information provided by your state taxing authority.

This W-2 Guide is designed primarily for businesses that prepare their own 2009 W-2s and other year-end forms and returns, and is current as of December 14, 2009. The online version will be updated as certain specific information becomes available. Visit our website at [schencksc.com](http://schencksc.com) for the most current version of this guide.

The information in this guide is general in nature, and is not intended as professional advice. It is meant to be used as a handy reference, and may not address all your year-end filing requirements. Please call us for specific information.

See p. 5 for information about the COBRA premium subsidy extension to 15 months through February 28, 2010, as enacted on 12/19/09 by the Department of Defense Appropriations Act of 2009.

# Payroll tax bases and rates; taxability of certain employee benefits

## FICA & self-employment tax bases and rates

	<u>2009</u>	<u>2010</u>
Wage & self-employment income bases:		
Medicare	Unlimited	Unlimited
Social Security	\$106,800	\$106,800
Maximum withholding:		
Medicare	Unlimited	Unlimited
Social Security	\$6,621.60	\$6,621.60
Rates for employers & employees:		
Medicare	1.45%	1.45%
Social Security	<u>6.20%</u>	<u>6.20%</u>
Combined FICA rate	<u>7.65%</u>	<u>7.65%</u>
Rates for self-employed:		
Medicare	2.90%	2.90%
Social Security	<u>12.40%</u>	<u>12.40%</u>
Combined FICA rate <sup>1</sup>	<u>15.30%</u> <sup>1</sup>	<u>15.30%</u> <sup>1</sup>

<sup>1</sup> The effective rate for self-employed taxpayers will vary because the self-employment (SE) tax calculation reduces net earnings from self-employment. In addition, half of the SE tax is available as an income tax deduction.

## FUTA & SUTA (unemployment) tax bases and rates

	<u>2009</u>	<u>2010</u>
Federal wage base	\$7,000	\$7,000
Federal rate (net)	.8%	.8%
Wisconsin wage base	\$12,000	\$12,000
Wisconsin rate	Determined on an individual employer basis	

## Taxability of certain employee benefits

“Yes” indicates the benefits listed below are subject to the following:

	<u>Income tax</u>	<u>Withholding</u>	<u>FICA</u>	<u>FUTA</u>	<u>SUTA (WI)</u>
401(k) deferrals	No	No	Yes	Yes	Yes
Moving expenses:					
Non-qualified moving expenses	Yes	Yes	Yes	Yes	Yes
Qualified moving expenses	No	No	No	No	No
Group-term life insurance over \$50,000 <sup>2</sup>	Yes	Optional	Yes	No	No
P.S. 58 costs	Yes	Yes	No	No	No
S corporation >2% shareholders' health insurance premiums	Yes	Yes	No	No	No
Personal use of company auto	Yes	Employer may elect to not withhold	Yes	Yes	Yes
Reimbursed employee business expenses:					
Accountable plan	No	No	No	No	No
Nonaccountable plan	Yes	Yes	Yes	Yes	Yes
Qualified cafeteria plan exclusions	No	No	No	No	No
Third party sick pay – employer-funded <sup>2</sup>	Yes	At employee's election	Yes <sup>3</sup>	Yes <sup>3</sup>	Yes <sup>3</sup>
Contributions to Health Savings Accounts (HSAs):					
Employer	No <sup>4</sup>	No <sup>4</sup>	No	No	No
Employee pre-tax contributions	No <sup>4</sup>	No <sup>4</sup>	No	No	No

<sup>2</sup> The general guidelines shown above may not be applicable for all situations. Please call us for additional information.

<sup>3</sup> Exempt, effective the first of the month following six full calendar months after the employee last worked.

<sup>4</sup> Exempt for federal only; taxable for Wisconsin.

## Other quick reference information:

- **Employee retirement plan deferral limits**
- **Health Savings Account (HSA) requirements and other limits**
- **Annual earned income limits for Social Security recipients**
- **Employment of family members by sole proprietor**

<b>• Employee retirement plan deferral limits</b>	<b><u>2009</u></b>	<b><u>2010</u></b>
401(k) and SEP plans	\$16,500	\$16,500
403(b) – tax-sheltered annuity plans	\$16,500	\$16,500
457 – eligible deferred compensation plans of state and local governments and tax-exempt organizations. These limits apply to employer contributions upon vesting and to employee salary deferrals. Higher limits may apply in the three taxable years before attainment of normal retirement age under the 457 plan.	\$16,500	\$16,500
408(p) SIMPLE	\$11,500	\$11,500
Catch-up contributions for participants age 50 or older by year-end of 401(k), 403(b), 457 plans of state and local governments, and SEP plans	\$ 5,500	\$ 5,500
Catch-up contributions for participants age 50 or older by year-end of SIMPLEs	\$ 2,500	\$ 2,500

<b>• Health Savings Account (HSA) requirements and statutory limits</b>	<b><u>2009</u></b>	<b><u>2010</u></b>
Health plan must have minimum annual deductible of:		
Self only	\$ 1,150	\$ 1,200
Family	2,300	2,400
Plan's maximum out-of-pocket expenses:		
Self only	\$ 5,800	\$ 5,950
Family	11,600	11,900
Maximum annual contribution:		
Self only	\$ 3,000	\$ 3,050
Family	5,950	6,150
Catch-up:		
Additional contribution (participants age 55 or older by year-end)	\$ 1,000	\$ 1,000

<b>• Annual earned income limits for Social Security recipients</b>	<b><u>2009</u></b>	<b><u>2010</u></b>
<b>Under full retirement age</b>	\$14,160 per year	\$14,160 per year
(One dollar in benefits will be withheld for every \$2 in earnings above the limit.)	(\$1,180 per month)	(\$1,180 per month)
<b>In the year of attaining full retirement age</b>	\$37,680 per year	\$37,680 per year
(Applies only to earnings for months prior to attaining full retirement age. One dollar in benefits will be withheld for every \$3 in earnings above the limit.)	(\$3,140 per month)	(\$3,140 per month)
There is no limit on earnings beginning the month of attaining full retirement age (66 years for retirees born in 1943-1954).		

<b>• Standard mileage rates</b>	<b><u>2009</u></b>	<b><u>2010</u></b>
<b>Business</b>	55.0¢ per mile	50.0¢ per mile
<b>Charitable</b>	14.0¢ per mile	14.0¢ per mile
<b>Medical and moving</b>	24.0¢ per mile	16.5¢ per mile

<b>• Employment of family members by sole proprietor</b>	<b><u>Taxable Income</u></b>	<b><u>Federal/State Withholding</u></b>	<b><u>FICA</u></b>	<b><u>FUTA</u></b>	<b><u>Wisconsin SUTA</u></b>
Spouse employed by spouse	Yes	Yes	Yes	No	No
Child employed by parent – under age 18	Yes	Yes	No	No	No
Child employed by parent – age 18 to 20	Yes	Yes	Yes	No	Yes
Child employed by parent – 21 and older	Yes	Yes	Yes	Yes	Yes

# Highlights for 2009 and 2010

## WISCONSIN HIGHLIGHTS

### WISCONSIN DEPARTMENT OF REVENUE (WDOR)

1. **My Tax Account launched.** On February 2, 2009, the Wisconsin Department of Revenue (WDOR) launched a web portal for businesses to manage certain tax accounts. *My Tax Account* provides online access to withholding tax, sales & use tax, premier resort area tax, local exposition center tax, and rental vehicle fee accounts. Use it to electronically file tax returns, make payments, update account information, view history and correspondence with the WDOR, and authorize access to a third party (including payroll service providers and accountants). More information is available at [http://www.revenue.wi.gov/faqs/my\\_tax\\_account/index.html](http://www.revenue.wi.gov/faqs/my_tax_account/index.html).
2. **WITAXEFT.com website for withholding tax and unemployment tax to be eliminated as of December 31.** With the rollout of *My Tax Account*, Wisconsin discontinued using the WITAXEFT.com website in June for sales & use tax and will discontinue it for withholding and unemployment tax as of December 31, 2009.
3. **New phone numbers for TeleFile Wisconsin withholding tax returns and payments.** As of January 1, 2010, Wisconsin will discontinue the current TeleFile phone number and replace it with two different phone numbers: 608-261-5340 (Madison) and 414-227-3895 (Milwaukee). Long distance charges will apply, if applicable.
4. **Minnesota/Wisconsin reciprocity ends December 31, 2009.** On September 18, 2009, Minnesota terminated the income tax reciprocity agreement between Minnesota and Wisconsin effective for taxable years beginning after December 31, 2009. Unless the tax reciprocity agreement is reinstated by December 31, you will need to withhold state taxes on MN and WI wages paid on or after January 1, 2010 for the states where employees work, not reside. WDOR information is at <http://www.revenue.wi.gov/faqs/ise/mnrecipro.html>.
5. **Wisconsin top tax bracket increase reflected in new withholding guide.** In July 2009, the WDOR released an updated Publication W-166, "Wisconsin Employer's Withholding Tax Guide," to reflect the new top individual income tax rate increase from 6.75% to 7.75%, and for bracket adjustments resulting from inflation.
6. **Wisconsin advance earned income credit (WEIC).** As part of the Budget Bill (also known as Wisconsin Act 28), Wisconsin now allows full-year legal residents of Wisconsin who qualify for the state advance EIC to ask employers to add it to their paychecks. To be eligible, employees must qualify for the federal advance earned income credit (federal AEIC) and claim it on federal Form W-5. They must also complete Wisconsin Form WT-5, "Wisconsin Earned Income Credit Advance Payment Certificate." The amount is a percentage of the federal AEIC. You need to reduce the amount of the WI withholding tax deposit by the amount of the WEIC and indicate the net amount on Form WT-6. Watch for changes to Form WT-7 to indicate this amount. You must also report it on Form W-2 in box 14. The RS record for the electronic W-2 file has been updated to accommodate the WEIC.
7. **Electronic WT-7 mandate.** In September 2009, the WDOR sent letters to employers notifying them of the new requirement to electronically file Form WT-7, "Employers Annual Reconciliation of Wisconsin Income Tax Withheld from Wages." This is effective for 2009 returns due January 31, 2010. You can request a hardship waiver by writing to the WDOR and including the circumstance as to why the requirement causes undue hardship. Acceptable electronic methods to file Form WT-7 are *My Tax Account*, Telefile, and e-file Transmission.
8. **Electronic filing of Forms W-2 & 1099 for 50 or more forms.** As part of the Budget Bill mentioned in item #6 above, the electronic filing thresholds for Forms W-2 and 1099 decreased from 250 to 50 of each type of form.
9. **Combined federal/state 1099 filing program.** If you file 1099s for Wisconsin payees with the IRS as part of the Combined Federal/State filing program, you must also file them with the WDOR if you withhold Wisconsin taxes.

### WISCONSIN DEPARTMENT OF WORKFORCE DEVELOPMENT (DWD)

**Enhanced online account management tools.** You now have online access to your account information, rate history, previously filed returns, and current balance. You can file tax and wage reports for current or past due quarters, make electronic payments and view bill details, and update account information.

## FEDERAL HIGHLIGHTS

The American Recovery and Reinvestment Act of 2009 (ARRA) includes provisions that affect payroll, specifically (1) the Making Work Pay income tax credit and (2) the COBRA premium subsidy for qualifying involuntarily terminated employees. Details follow.

1. **Making Work Pay income tax credit.** For 2009 & 2010, the Making Work Pay tax credit is the lesser of 6.2% of a worker's earned income or, for single filers, \$400 per year. Joint filers are limited to \$800 per year. The credit is phased out at a rate of 2% of modified adjusted gross income (AGI) over \$75,000 for single filers and \$150,000 for joint filers. Workers with modified AGI over \$95,000 (single) and \$190,000 (joint) are ineligible for the credit.

The IRS revised the tables used to calculate federal withholding on employee paychecks so they would benefit immediately from the Making Work Pay tax credit through larger net pay. The new withholding tables are available in IRS Publication 15-T at <http://www.irs.gov/pub/irs-pdf/p15t.pdf>.

Because of the eligibility requirements and the way the IRS revised the withholding tables, it is possible that the new

## Highlights for 2009 and 2010 (continued)

### (FEDERAL HIGHLIGHTS – Making Work Pay income tax credit continued)

tables will create under-withholding for some taxpayers. IRS issued Publication 4766, *Making Work Pay Credit* to help employees decide whether and how to change their Form W-4, "Employee's Withholding Allowance Certificate."

2. **Government subsidy of COBRA premiums.** The ARRA of 2009 subsidizes involuntarily terminated employees who elect COBRA coverage by requiring them to pay only 35% of their COBRA premiums. If you are required to offer COBRA to your former employees, you have to pay the remaining 65%. You can take a credit for this amount against your payroll tax payments – see item #4 below.

3. **COBRA insurance administration.** To qualify for COBRA premium assistance, workers must be involuntarily terminated during the period beginning September 1, 2008 and ending December 31, 2009. As mentioned above, you MUST pay 65% of each qualifying worker's COBRA premiums for 9 months. You need to re-offer COBRA to those former employees who did not take COBRA when you first offered it. Work with your COBRA third party administrator to comply with this regulation. Extended to 15 months through 2/28/2010 by Defense Appropriations legislation enacted 12/19/09

Frequently asked questions for both employers and employees about administration of the COBRA subsidy are available at <http://www.dol.gov/ebsa/cobra.html>.

4. **Employers' COBRA premium subsidy credit from payroll taxes.** You can take a credit on your quarterly Form 941 or annual Forms 943 & 944 for any COBRA premium subsidies you paid. Alternatively, you can reduce your employment tax deposit(s) by the amount you paid. As mentioned below, the IRS treats the COBRA premium subsidy as a deposit made on the first day of the quarter. If you reduce a deposit, but then discover you did so in error (for example, if a former employee did not pay 35% of the premiums), you could be assessed penalties and interest for a late payroll deposit. The COBRA premium subsidy is not available until the first premium period following February 17, 2009; therefore it does not apply to COBRA premiums for periods before that date.

The subsidy is available to qualifying former employees until the first time they meet any of the following criteria:

- a. Nine months from the first day of the first month that the subsidy began
- b. The end of the COBRA coverage period (which is 18 months of COBRA coverage)
- c. The first day they become eligible for health coverage under a different group health plan or Medicare

The IRS requires employers to maintain supporting documentation for the COBRA premium subsidy credit. This includes:

- a. Documentation of receipt of the employee's 35% share of the premium.
- b. In the case of insured plans, a copy of the invoice or other supporting statement from the insurance carrier and proof of timely payment of the full premium to the insurance carrier.
- c. In the case of self-funded plans, proof of the premium amount and coverage provided to eligible individuals.
- d. Attestation of the former employee's involuntary termination, including the date.
- e. Proof of each assistance-eligible individual's eligibility for COBRA coverage at any time during the period beginning September 1, 2008 and ending December 31, 2009, and election of COBRA coverage.
- f. The social security numbers of all covered employees, the amount of the subsidy reimbursed with respect to each covered employee, and whether the subsidy was for one individual or two or more individuals.
- g. Other documents necessary to verify the correct amount of reimbursement.

Extended through Feb. 28, 2010

You must complete all these requirements before you can apply a COBRA premium subsidy credit to an employment tax deposit or take credit on Forms 943, 944, or Form 941, line 12a. You are required to indicate on these forms the number of employees for whom you provided COBRA premium assistance. The IRS treats the COBRA premium subsidy as a deposit made on the first day of the quarter.

Federal tax deposit frequency is based on your liability, not the amount of your payment. If you have employment taxes due of \$110,000 and \$15,000 in COBRA premium subsidy credit to apply to your tax payment, you must deposit the difference of \$95,000 on the next business day.

Employees who receive the COBRA premium subsidy will need to repay it when they file their individual federal income tax returns if (a) the entire amount of their adjusted gross income (AGI) exceeds \$145,000 (\$290,000 if they file a joint return), or (b) part of it to the extent that their AGI is \$125,000 to \$145,000 (\$250,000 - \$290,000 if they file a joint return), reduced proportionately. High-income taxpayers may make a permanent election to waive the right to the subsidy for all periods of coverage if they expect to be ineligible. If they make the election, they cannot recover the subsidy or claim it as tax credit or otherwise, even if their income turns out to be lower than the threshold for eligibility.

You are not required to report the COBRA premium subsidy on Forms W-2 or 1099, but former employees may request that you provide the amount of the subsidy for their personal tax returns.

For more information, visit <http://www.irs.gov/newsroom/article/0,,id=204708,00.html> to access FAQ about payroll tax administration of the COBRA premium subsidy.

# Taxable and non-taxable fringe benefits

You are required to report on Form W-2 (boxes 1, 16, and, if applicable, boxes 3 and 5) all fringe benefits not specifically excluded from income by current tax law. The taxable amount is the fair market value of the benefit.

## **Taxable fringe benefits and withholding**

Fringe benefits are generally taxable and are subject to withholding when received. You may elect to treat certain non-cash taxable fringe benefits as paid on a pay period, quarterly, semi-annual, annual, or other basis (but no less frequently than annually). Some examples of taxable fringe benefits are employee business expense reimbursements (or advances) NOT made under an accountable plan, accident and health insurance premiums paid by an S corporation on behalf of a more than 2% shareholder/employee (including certain family employees), and the value of personal use of employer-provided vehicles (see [page 8](#)).

If supplemental cash payments and non-cash fringe benefits do not aggregate to more than \$1 million during the year for any individual, you may compute withholding by either (1) adding the value of the non-cash fringe benefits to the regular wages for a payroll period and calculating withholding taxes on the total under the general deposit rules, or (2) withholding federal income tax on the value of the benefit at 25%. Regardless of which method you use, if and when the value of all cash and non-cash supplemental benefits paid to any individual during the year exceeds \$1 million, a 35% federal withholding rate applies to the excess. For Wisconsin purposes, the alternative withholding rate is based on a tiered schedule of up to 7.75%.

## **Special accounting period rule**

Unless you elect to use the special accounting period rule, you must treat benefits provided in a calendar year as received by December 31. The special accounting period rule allows you to treat the value of certain non-cash fringe benefits actually provided during November and December (or any shorter period at year-end) as paid in the following year. You can defer only the benefits provided during these two months. This rule is not available (1) for group-term life, (2) for non-qualified moving expenses, or (3) for transferring real property or investment personal property.

No formal notice to the IRS is required to elect the special accounting period rule, but you must notify affected employees that you used the rule and for which period you used it. You must provide notice directly to the employees at or near the time you provide Form W-2, but not earlier than with the last paycheck of the calendar year. Additionally, if you use the rule for a particular fringe benefit, you must use it with respect to all employees who receive that benefit, and your employees must use it as well.

Employers benefit from using the special accounting period rule because they can complete their fringe benefit work up to two months ahead of schedule, leaving more time to concentrate on other pressing year-end work. Employees benefit because any additional withholding doesn't reduce their take-home pay during the holidays.

## **Nontaxable fringe benefits**

Employee business expense reimbursements (or advances) made under an accountable plan are nontaxable fringe benefits and are, therefore, excludable from wages.

Generally, the other employee fringe benefits you can exclude from taxable wages on Form W-2 are the following:

1. No-additional-cost services
2. Qualified employee discounts
3. Working condition fringe benefits
4. De minimis fringe benefits
5. On-premises athletic facilities
6. Qualified transportation fringes
7. Qualified moving expenses
8. Employer-operated eating facilities
9. Any other employee benefit specifically excluded from income by a provision of the Internal Revenue Code

These items have specific, technical definitions. Please call us for information when you review employee fringe benefits that appear to be excludable from compensation reported on Form W-2.

# Group-term life insurance

## Group-term life insurance rates

The table below provides rates for the cost of excess group-term life insurance coverage (Reg. Sec. 1.79-3(d)(2)).

### Uniform Premiums for \$1,000 of Group-term Life Insurance Protection

	5-year age bracket	Cost per \$1,000 of protection for 1-month period
Group-term life insurance rates are for excess insurance reported on Form W-2 (see item C on <a href="#">page 13</a> ).	Under 25	\$0.05
	25 to 29	\$0.06
	30 to 34	\$0.08
	35 to 39	\$0.09
	40 to 44	\$0.10
	45 to 49	\$0.15
	50 to 54	\$0.23
	55 to 59	\$0.43
	60 to 64	\$0.66
	65 to 69	\$1.27
	70 and over	\$2.06

For purposes of this table, the age of the employee is the person's attained age on the last day of his or her taxable year. For discriminatory plans, key employees are taxed on the value of all coverage, including the first \$50,000. Be advised that there are different reporting rules for spousal and dependent benefits.

## Dependent group-term life insurance

Any employer may provide non-taxable dependent group-term life insurance to spouses or dependents of employees up to \$2,000. If the coverage is over \$2,000, the *entire amount* is taxable to the employee. To calculate the benefit, follow the method shown in the examples below, using the spouse and/or dependent age in the table above. If an employee pays for a portion of the coverage with after-tax dollars, deduct this amount from the computed add-on.

## Examples of calculations to determine taxable income

### Example 1

You provide an employee (age 35 at December 31) with group-term life insurance coverage based on two (2) times the employee's annual salary, which was \$30,000 at the beginning of the year and increased to \$32,000 on October 1.

You calculate the taxable income for this coverage as follows:

$\begin{array}{r} \$10,000 \text{ } (\$30,000 \times 2 - \$50,000) \\ \div 1,000 \\ \hline 10 \text{ units of coverage} \\ \times .09 \text{ cost per } \$1,000 \\ \hline .90 \text{ taxable income per month} \\ \times 9 \text{ months} \\ \hline \underline{\$ 8.10} \end{array}$	$\begin{array}{r} \$14,000 \text{ } (\$32,000 \times 2 - \$50,000) \\ \div 1,000 \\ \hline 14 \text{ units of coverage} \\ \times .09 \text{ cost per } \$1,000 \\ \hline 1.26 \text{ taxable income per month} \\ \times 3 \text{ months} \\ \hline \underline{\$ 3.78} \end{array}$
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\$ 8.10 Taxable income for January 1 to September 30

\$ 3.78 Taxable income for October 1 to December 31

\$11.88

### Example 2

You provide an employee (age 58 at December 31) with \$100,000 of group-term life insurance coverage for the entire year. The employee pays for some of the premium using an *after-tax* payroll deduction of \$10.50 per month.

\$100,000	total annual coverage
Less: <u>( 50,000)</u>	excludable portion
50,000	portion of coverage subject to tax
$\div 1,000$	premiums are based on \$1,000 units
50	units of coverage
$\times .43$	cost per \$1,000 for person age 58
21.50	value of benefit per month
Less: <u>(10.50)</u>	employee after-tax deduction
11.00	taxable income per month
$\times 12$	number of months you provided coverage
<u>\$ 132.00</u>	total taxable income

Note: If the employee had contributed using *pre-tax* (cafeteria plan) deductions, the amount includible in income would be *the greater of* the pre-tax contribution or the value calculated using the table. In this case, because \$258 (\$21.50 x 12) is greater than \$126 (\$10.50 x 12), \$258 would be the amount reportable as taxable income.

# Personal use of employer-provided vehicles

The value of personal use of vehicles you provide to your employees is generally taxable as compensation. Report it on Form W-2 (boxes 1, 3, 5, and 16), net of any amount the employee paid you for the value of personal use. You must also report this value on Form W-2, box 14, or on a separate statement you give to the employee.

## Special valuation rules

You may not use a special valuation rule (see "How to value personal use" below) for valuing an employee's personal use of a company vehicle unless at least one of the following conditions applies with respect to that employee:

1. You treat the value of the benefit as wages for reporting purposes on timely-filed returns, including extensions, for the year in which you provided the benefit.
2. Your employee includes the value of the benefit in income on timely-filed returns, including extensions, for the year in which you provided the benefit.
3. Your employee is not a control employee.
4. You demonstrate a good faith effort to treat the benefit correctly for reporting purposes.

## Notice to employees - election not to withhold income taxes

You may elect not to withhold federal or Wisconsin income tax on the value of the employee's personal use of a company vehicle. You must notify the employee in writing of your election not to withhold, and include the value of the benefit on Form W-2. You are required to provide this notice to the employee by January 31 of the year to which the election is to apply, or (if later), within 30 days after the date you first provided the vehicle to the employee.

## How to value personal use

Determine the value of personal use according to either the general valuation rule or one of the special valuation rules provided by the IRS. The special valuation rules are (1) the annual lease value rule (see the table below), (2) the cents-per-mile rule, and (3) the commuting rule. Restrictions apply to the use of these three rules. Special rules apply to use of the ALV rule for fleets of 20 or more vehicles - contact us for more information.

ALV (annual lease value) table								
Fair market value		ALV	Fair market value		ALV	Fair market value		ALV
0	to 999	600	15,000	to 15,999	4,350	32,000	to 33,999	8,750
1,000	to 1,999	850	16,000	to 16,999	4,600	34,000	to 35,999	9,250
2,000	to 2,999	1,100	17,000	to 17,999	4,850	36,000	to 37,999	9,750
3,000	to 3,999	1,350	18,000	to 18,999	5,100	38,000	to 39,999	10,250
4,000	to 4,999	1,600	19,000	to 19,999	5,350	40,000	to 41,999	10,750
5,000	to 5,999	1,850	20,000	to 20,999	5,600	42,000	to 43,999	11,250
6,000	to 6,999	2,100	21,000	to 21,999	5,850	44,000	to 45,999	11,750
7,000	to 7,999	2,350	22,000	to 22,999	6,100	46,000	to 47,999	12,250
8,000	to 8,999	2,600	23,000	to 23,999	6,350	48,000	to 49,999	12,750
9,000	to 9,999	2,850	24,000	to 24,999	6,600	50,000	to 51,999	13,250
10,000	to 10,999	3,100	25,000	to 25,999	6,850	52,000	to 53,999	13,750
11,000	to 11,999	3,350	26,000	to 27,999	7,250	54,000	to 55,999	14,250
12,000	to 12,999	3,600	28,000	to 29,999	7,750	56,000	to 57,999	14,750
13,000	to 13,999	3,850	30,000	to 31,999	8,250	58,000	to 59,999	15,250
14,000	to 14,999	4,100	For vehicles having a fair market value in excess of \$59,999, the annual lease value (ALV) is equal to (.25 x the fair market value of the automobile) + \$500.					

The ALV table is based on a 4-year lease term. ALV values for any given vehicle will generally stay the same from the first day of use through December 31 of the fourth full year after that date. ALV amounts include maintenance and insurance, but not fuel. Value fuel at fair market value (FMV) or at 5.5 cents per mile for travel in the U.S., Canada, and Mexico.

### Cents-per-mile valuation rule:

The rates include fuel, maintenance, depreciation, and insurance.  
 Maximum fair market value of vehicle eligible to use this rule for 2009: \$15,000 for passenger automobiles  
 \$15,200 for trucks and vans

### Rates for the cents-per-mile valuation rule:

January 1 – December 31, 2009: 55.0 cents per mile  
 Starting January 1, 2010: 50.0 cents per mile

**Commuting valuation rule:** The rate is \$1.50 per one way commute or \$3.00 per day.

# Tips; non-qualified deferred compensation

## Tips

**Taxable (not allocated) tips.** Report taxable tips on Form W-2, in boxes 1, 5, 7, and 16. Show the amount of tips subject to social security tax in box 7 and medicare tax in box 5, even if you did not have enough employee funds to withhold taxes on the tips.

Employees are required to report cash tips to you on or before the 10th of the month after the month they receive them. The report should include tips received on charge receipts as well as tips received directly from customers. No report is required for months when tips are less than \$20. Employees may report tips on Form 4070, "Employee's Report of Tips to Employer," or on a similar statement. They are required to keep a daily record of tips received, and may use Form 4070-A, "Employee's Daily Record of Tips," for this purpose.

## **Allocated tips**

If you are a large food or beverage establishment required to allocate tips, report allocated tips in box 8 of Form W-2. Do not include this amount in boxes 1, 3, 5, 7, or 16. (Base withholding only on wages and reported tips. Do not withhold income or social security tax from allocated tips.) You are also required to file Form 8027, "Employer's Annual Information Return of Tip Income and Allocated Tips."

Large food or beverage establishments are businesses that employ more than 10 employees based on the preceding calendar year (excluding owners of 50% or more in value of the stock of a corporation that runs the establishment) on a typical business day, where consumption occurs on the premises and where tipping is customary. The allocation rules apply only if the total amount of tips the employees report during any payroll period is less than 8% of the establishment's total sales during that period, excluding carryout sales, sales tax, and sales on which there was a mandatory service charge of 10% or more.

If this condition exists, you must allocate 8% of total sales less reported tips among the tipped employees. You may petition the IRS to reduce the percentage of gross receipts from 8% (but not below 2%) to the percentage determined to be the best estimate of the actual percentage of gross receipts constituting tips.

Because the allocation and reporting requirements are complex in this area, we suggest that you contact us if you qualify as a large food or beverage establishment.

## **Non-qualified deferred compensation**

Distributions from a non-qualified or non-governmental Section 457(b) plan are subject to federal income tax withholding and are reportable in boxes 1 and 11 of Form W-2. An amount deferred under a non-qualified deferred compensation plan is subject to social security and medicare taxes, and is reportable in boxes 3 and 5 of Form W-2, generally at the later of when services are performed or when there is no substantial risk of forfeiture.

**Unless certain requirements are satisfied**, all compensation considered deferred under a plan for the taxable year and all preceding taxable years (after 2004) is subject to (1) income tax, (2) a 20% penalty, and (3) interest (to the extent the compensation is not subject to a substantial risk of forfeiture and was not previously included in taxable income). However, if the plan was materially modified after October 3, 2004 by adding a benefit, right, or feature, then amounts deferred under the plan in taxable years prior to January 1, 2005 would also be subject potential income taxes.

State withholding and reporting requirements (boxes 16 and 17) vary. For Wisconsin, taxation of non-qualified deferred compensation depends on the recipient's state of residence and provisions in the plan document.

Reporting and withholding requirements for non-qualified deferred compensation plans are complex. Please contact us for more information.

# Health Savings Accounts (HSAs)

## Definition of Health Savings Account (HSA)

An HSA is a tax-favored IRA-type of trust account that eligible individuals covered by certain high-deductible health plans (HDHPs) can establish. Owners can use their HSAs to pay for medical expenses not covered by other insurance or reimbursed. The medical expenses can be for themselves, their spouses, and their dependents. Employers can make contributions to employee HSA accounts on behalf of their employees.

## Definition of high-deductible health plans

High-deductible health plans are plans that meet required statutory limits (adjusted annually for inflation) for deductibles and out-of-pocket expenses. However, in the case of a plan using a network of providers, these statutory limits may be exceeded for services provided outside the network.

For HSA eligibility purposes, out-of-pocket medical costs do not include health insurance premiums. The plan is not required to impose any deductible for preventive care.

## Contribution limits and catch-up contributions to HSAs

The maximum contributions can be made by or on behalf of an eligible individual. Catch-up contributions allow individuals who are at least age 55 by the end of the year to make an additional contribution for that year. These amounts are adjusted annually for inflation. See [page 3](#) for the statutory current and catch-up contribution limits.

HSAs belong to the individuals for whose benefit the accounts are established. Whether the individuals themselves or their employers contribute to their HSAs, the HSAs are portable and move with the individuals even if they terminate employment.

An individual with HDHP coverage can make contributions (subject to statutory limits – see [page 3](#)) and get an “above-the line” federal tax deduction. Alternatively, an employer could have a cafeteria plan that allows employees to make pre-tax HSA contributions. Investment earnings on HSA funds generally are tax-free for federal purposes and ultimately HSA funds can escape federal taxation entirely if they are withdrawn for qualified medical expenses.

## Who can establish an HSA?

To be eligible to establish an HSA, an individual must meet all of the following conditions:

1. Be covered under a high-deductible health plan.
2. Not be covered by any other health plan that is not a high-deductible health plan (with certain exceptions for plans providing specific limited types of coverage).
3. Not be enrolled in Medicare for such month (generally has not yet reached 65).
4. Not eligible to be claimed as a dependent on another person’s tax return for the year.

## Federal reporting

Employer contributions to an eligible HSA are excludible from the employee’s income. The contributions must be within the statutory limits (see [page 3](#)) and are generally subject to “comparability” requirements. Employee contributions made pre-tax through a Section 125 cafeteria plan are included as employer contributions. This total must be reported on Form W-2 in box 12, code W.

## State reporting

Wisconsin (like certain other states) does **not** follow federal HSA treatment. Any HSA employer contributions (including pre-tax employee contributions) are considered taxable wages for Wisconsin income tax purposes and are subject to Wisconsin income tax withholding. The contributions are included in box 16, "State wages, tips, etc" of Form W-2. Note, however, that employer contributions are excluded from Wisconsin unemployment insurance coverage.

There are special requirements for greater-than-2%-shareholders of an S corporation and partners in a partnership. Please contact us for details.

## Third party sick pay

If the third party payer of sick pay does not transfer liability for FICA to you, do not report it on Forms W-2 and W-3. However, if the third party payer transfers it and properly notifies you, you must assume liability for the employer's share of FICA and report the related amounts for the year on Forms W-2 and W-3 (as well as on Form 941).

To determine the taxable portion of third party payments, you must first consider the percent of the premiums you (the employer) pay as an employee benefit. If you pay the entire premium for your employees, any payments they receive from the plan will be 100% taxable. If you pay 75% of the premium, 75% of the payments will be taxable. If you pay none of the premium, the payments they receive will be entirely tax-free, as long as they pay with after-tax dollars. Of course, your employees need to pay the entire premium on the policy to achieve this.

**Caution:** If you offer this benefit as part of a Section 125 plan, any premiums your employees pay on a pre-tax basis are deemed to be paid by you – making 100% of any payments they receive fully taxable. As a tax planning tip to your employees, you may want to discuss the benefit of having them pay 100% of the premium with after-tax dollars. Under this arrangement, they will not pay tax on any benefits they receive from the disability policy.

IRS Publication 15-A, "Employer's Supplemental Tax Guide," addresses the reporting requirements. If you have questions regarding sick pay, please contact us.

### Employment taxes

The third party payer will withhold the employee's share of FICA taxes from the payments to the employee for six full calendar months after the last calendar month in which the employee worked. The payer will also withhold federal and state income taxes if requested by the employee. The employee should complete Form W-4S, "Request for Federal Income Tax Withholding from Sick Pay," and provide it to the third party payer.

If the third party payer has transferred liability to you, you should receive notice of the amount of FICA withheld (that you are required to match) on or before the date the taxes on the sick pay would be required to be deposited. Include your employer match payment with your next Form 941 deposit.

By January 15, you should receive a statement from the third party payer showing the name, social security number, the amount of sick pay benefits paid during the previous calendar year, and the amount of any payroll taxes withheld on those benefit payments. Use this information to determine if you have all appropriate sick pay recorded in your payroll program prior to issuing Forms W-2 for the year.

### Form 941 reporting

Include taxable payments made by a third party that transfers liability to you on your quarterly Form 941. Include the taxable portion of the payments in the totals for lines 2, 5a, and 5c. Do not report non-taxable payments on Form 941.

Enter a subtraction adjustment on line 7b of Form 941. This is for the employee portion of FICA that the third party payer withheld and deposited under its federal identification number. By subtracting it on line 7b, your total Form 941 liability should then match the amount of deposits you made for the quarter.

Although you will need to report any federal income taxes withheld by the third party on your employee Forms W-2, **do not** report this amount on your Form 941 because the third party payer deposited and reported the withholding under its federal identification number.

### Form W-2 reporting

Report taxable third party sick pay in Form W-2 boxes 1, 3, 5, and 16. Include social security taxes withheld in box 4, and medicare taxes withheld in box 6. Report any federal or state income taxes withheld by the third party in boxes 2 and/or 17 (this will be a reconciling item when you compare Form W-3 to your Forms 941). You must also check the "Third-party sick pay" box in section 13 and report any non-taxable portion in box 12 using code "J". You may report the amount of taxable benefits received in box 14 under "Sick Pay." You may report third party sick payments on a separate Form W-2.

### Form W-3 reporting

Form W-3, box 2 will include the total federal income tax you and the third party sick pay provider withheld (this amount will not match the total amount reported on your four quarterly Forms 941 for that year). Also, report the amount of federal income tax withheld and paid by the third party sick pay provider in box 14 of Form W-3. This will provide the necessary explanation to the IRS as to why the total amount reported on your employee Forms W-2 (box 2) and Form W-3 (box 2) does not agree with your quarterly Forms 941 (line 3). Remember that the third party payer has recorded income tax withheld on its Form 941.

### FUTA and Wisconsin unemployment taxes

You are required to consider third party sick payments in your calculation of FUTA and Wisconsin unemployment taxes for the first six calendar months of payments after the last calendar month in which the employee worked. You must include these payments in the employee wage detail you submit to the DWD (Department of Workforce Development) with your Wisconsin unemployment compensation quarterly report.

# W-2 filing requirements; general information; W-2 preparation

## Note new Wisconsin e-file requirement

*If you file 50 or more Wisconsin copies of Form W-2, you must file electronically with the Wisconsin Department of Revenue (WDOR). If you file 250 or more federal copies of Form W-2, you must file electronically with the Social Security Administration (SSA). You will need to register with the SSA prior to filing Form W-2, but no registration is needed for the WDOR. See [page 20](#) for electronic filing addresses.*

An image of Form W-2 is on [page 14](#) for your convenience. Treat the copies as follows:

1. Copy A: Send Copy A to the Social Security Administration with Form W-3 by March 1 if you file on paper.
  - a. Send in whole sheets of Form W-2, Copy A; do not separate or fold. Do not staple or tape to Form W-3. If possible, file W-2s in alphabetical order by last name or numerically by SSN.
  - b. In box c of Form W-3, indicate the number of completed W-2 statements enclosed with Form W-3.  
**Do not count void Forms W-2.**
  - c. Amounts reported on related employment tax forms (W-2, 941, 943, or 944) should agree with the amounts reported on Form W-3. If there are differences, determine that the reasons are valid because the government may contact you. Retain your reconciliation for future reference.
2. Copy 1: Send Copy 1 to the Wisconsin Department of Revenue (WDOR) by February 1 if you file on paper. Include an adding machine tape or other listing of amounts withheld. The reconciliation to be included with Copy 1 varies, based on your situation:
  - a. All forms WT-7 are required to be filed electronically unless you have received a hardship waiver from the WDOR. Send a cover letter saying that Form WT-7 was filed electronically. Include the business name, Wisconsin Tax Number, Federal Employer Identification Number (FEIN), total number of Forms W-2, and total amount of tax withheld.
  - b. If the hardship waiver has been granted, you can file a paper Form WT-7. The WDOR encourages employers to use either the pre-printed Form WT-7 or the electronic fill-in form since the WDOR uses electronic processing for Form WT-7.
3. Copies B, C, and 2: Give these copies to each employee by February 1.
4. Copy D: Retain Copy D in your files along with your copy of Form W-3.

You must base Form W-2 entries on taxable compensation paid this calendar year, regardless of your fiscal year-end.

If an employee terminates employment before the end of the year, you may give copies of Form W-2 any time after employment ends, but no later than February 1 of the year following the year you paid the compensation. If the employee asks for Form W-2, you are required to give the person the completed form within 30 days of the request or the final wage payment, whichever is later. Note: There are special filing requirements for employers ceasing business.

## General information

Make all entries on Form W-2 using dark black ink in **12-point courier font**. Do not use script type, inverted font, italics, or dual case alpha characters. Make all dollar entries without the dollar sign and comma, but with the decimal point (0000.00). Show the cents portion of the money amounts. It is important that entries in the boxes do not cross one or more of the vertical or horizontal lines that separate the boxes. If a box does not apply, leave it blank.

Corrections are not allowed on Forms W-2 filed with the Social Security Administration. If you make an error, do not erase, white out, or strike over the entry. Check the "void" box and prepare a new form. Be careful not to include any amounts shown on "void" forms in the totals you enter on Form W-3.

## Correcting Form W-2

How to correct Form W-2 depends on your filing method (paper or electronic). Please contact us to discuss your options.

## W-2 preparation

- Box a:** Enter the number shown on the employee's social security card.
- Box b:** Show the number assigned to you by the IRS. It should agree with your Form 941, 943, or 944.
- Box c:** This should be the same name and address as shown on your Form 941, 943, or 944.
- Box d:** Use this box for any internal coding you may have. This is an optional box.
- Box e:** Enter the name as shown on the employee's social security card (first, middle initial, last). If the name doesn't fit, show first initial, middle initial, and last name and ignore the vertical line. If the name has changed, have the employee get a corrected card from any SSA office. Use the name on the original card until you see the corrected one. Do not show titles or academic degrees such as "Mr.," "MD," or "Esq." at the beginning or end of the employee's name. Include Jr., Sr., etc. only if the suffix appears on the employee's social security card. Use the suffix entry field.

## W-2 preparation (continued)

- Box f:** Enter the employee's address and ZIP code.
- Boxes 1, 16:** Include wages (excluding elective deferrals), tips, and all taxable benefits in boxes 1 and 16.
- Box 2:** Report the amount of federal income tax withheld. Do not reduce this amount by advance EIC.
- Boxes 3,4,7:** Report total wages and tips subject to the social security portion of FICA in boxes 3 and 7, respectively. The total of boxes 3 and 7 should not be more than \$106,800. Use box 4 to report the related withholding, which should not exceed \$6,621.60.
- Boxes 5, 6:** Report total wages, tips, and other items subject to the medicare portion of FICA in box 5. Use box 6 to report the related withholding.
- Box 8:** Large food or beverage establishments: Show in box 8 the amount of tips allocated to employees. This amount is for informational purposes only. Do not include it in boxes 1, 3, 5, 7, or 16. See [page 9](#) for more information.
- Box 9:** Report the total amount paid to the employee as advance earned income credit payments in box 9.
- Box 10:** Report in box 10 the total amount of dependent care benefits under Section 129 or Section 125 that you paid to or incurred for the employee. Also add any amount in excess of the \$5,000 exclusion to wages shown in boxes 1, 3, 5, and 16.
- Box 11:** Report the total amount from a non-qualified deferred compensation plan or a non-governmental Section 457 plan that was distributed or became taxable (see [page 9](#)). Any amount included in box 11 should generally be included in boxes 1 and 16. Do not report in box 11 deferrals that are included in boxes 3 and/or 5 and that are for current year services. You must report distributions from governmental Sec. 457(b) plans on Form 1099-R.
- Box 12:** Use the codes listed below in box 12. Report the letter code (*capitalized*) and amounts in the box for up to four items per W-2. If there are additional items, report them on a separate W-2.
- A. Use code A to identify the amount of social security tax on the employee's tips that you could not collect because the employee did not have enough funds from which to deduct it. (Do not include this amount in box 4.)
  - B. Use code B to identify the amount of medicare tax on the employee's tips that you could not collect because the employee did not have enough funds from which to deduct it. (Do not include this amount in box 6.)
  - C. Use code C to identify the taxable amount of group-term life insurance over \$50,000 included in boxes 1, 3 (up to the social security wage base), 5, and 16 (see tables, [page 7](#)).
  - D-H. Use one of these codes to identify deferred compensation under the following arrangements:
    - D. Section 401(k) elective deferrals (includes SIMPLE 401(k) arrangements)
    - E. Section 403(b) elective deferrals
    - F. Section 408(k)(6) elective deferrals
    - G. Section 457(b) elective and non-elective contributions
    - H. Section 501(c)(18)(D) elective deferrals (include in box 1 as wages)
  - J. Use code J to identify the amount of sick pay NOT includible in income because the employee contributed to the sick pay plan.
  - K. Use code K to identify the 20% excise tax on excess "golden parachute" payments made to certain key corporate employees. (Also include the excise tax as income tax withheld in box 2 if the excess payments are considered wages.)
  - L. Use code L only if you reimbursed your employee for employee business expenses using a per diem or mileage allowance and the amount that you reimbursed exceeds the amount treated as substantiated under IRS rules. Report in box 12 the substantiated amount (non-taxable). Include the excess (taxable portion) in boxes 1, 3, 5, and 16. Business (non-moving) mileage rates are on [page 8](#) under "Rates for the cents-per-mile valuation rule." Call us for per diem rates.
  - M. Use code M to identify the amount of uncollected social security taxes on group-term life insurance coverage in excess of \$50,000 provided to a former employee (including retirees) for the periods or months of insurance coverage during which an employment relationship no longer exists.
  - N. Use code N to identify the amount of uncollected medicare taxes on group-term life insurance coverage in excess of \$50,000 provided to a former employee (including retirees) for the periods or months of insurance coverage during which an employment relationship no longer exists.
  - P. Use code P to identify the amount of excludable reimbursements paid directly to an employee for qualified (deductible) moving expenses. (Do not include in boxes 1, 3, 5, or 16.)

# W-2 preparation (continued)

**Box 12 (continued):**

- Q. Use code Q to identify any nontaxable combat pay if you are a military employer.
- R. Use code R to identify total employer contributions to an Archer MSA (medical savings account).
- S. Use code S to identify employee salary reduction contributions to a SIMPLE retirement account deferred under a Section 408(p) plan. However, if the SIMPLE is part of a Section 401(k) arrangement, use code D to report the amount.
- T. Use code T to identify employer-provided adoption benefits. Also include benefits from the pre-tax contributions made by the employee to a Section 125 adoption plan account.
- V. Use code V to identify the "spread" from your employee's (or former employee's) exercise of non-statutory stock options. (Include this amount in boxes 1, 3, 5, and 16.)
- W. Use code W to identify any employer contributions (including amounts the employee elected to contribute using a Section 125 plan) to a health savings account (HSA).
- Y. For 2009, the IRS does not require any reporting under Code Y.
- Z. Use code Z to identify any income under Section 409A on a nonqualified deferred compensation plan that fails to satisfy the requirements of Section 409A. Include these amounts in box 1.
- AA. Use code AA to identify Roth 401(k) contributions (but NOT elective deferrals under code D).
- BB. Use code BB to identify Roth 403(b) contributions (but NOT elective deferrals under code E).

**Box 13:**

Check the boxes that apply. Check the **"Statutory employee"** box for an employee whose earnings are subject to social security and medicare taxes but are not subject to federal income tax withholding. Do not check this box for common law employees. Statutory employees are workers who are independent contractors under the common law rules but are treated by statute as employees. Check the **"Retirement plan"** box for an employee who was an active participant (for any part of the year) in a qualified pension, profit-sharing, or stock bonus plan described in Section 401(a) (including a 401(k) plan); annuity plans (Section 403(a) or 403(b)); SEP plans (408(k)); SIMPLE plans (408(p)); employee-funded retirement plan trusts (501(c)(18)); and a plan for federal, state, or local government employees (other than a Section 457 plan). Do not check this box for contributions to a non-qualified or Section 457 plan. Check the **"Third-party sick pay"** box only if you are a third party sick pay payer filing a Form W-2 for an insured's employee or are an employer reporting sick pay payments made by a third party.

**Box 14:**

Box 14 is for any other information you wish to report to the employee. Label each item. Some examples are union dues, health insurance premiums, and educational assistance payments. You must report here, or in a separate statement to your employee, the value of the personal use of a vehicle (see [page 8](#)) provided to your employee and reported in box 1.

This copy of Form W-2 (shown smaller than actual size) is for your convenience in working with the information above and on pages 12 and 13.

Void <input type="checkbox"/>	a Employee's social security number	OMB No. 1545-0008				
b Employer Identification number (EIN)		1 Wages, tips, other compensation	2 Federal income tax withheld			
c Employer's name, address, and ZIP code		3 Social security wages	4 Social security tax withheld			
		5 Medicare wages and tips	6 Medicare tax withheld			
		7 Social security tips	8 Allocated tips			
d Control number		9 Advance EIC payment	10 Dependent care benefits			
e Employee's first name and initial      Last name      Suff.		11 Nonqualified plans	12a See instructions for box 12			
		13 Statutory employee <input type="checkbox"/> Retirement plan <input type="checkbox"/> Third-party sick pay <input type="checkbox"/>	12b			
		14 Other	12c			
			12d			
f Employee's address and ZIP code						
15 State	Employer's state ID number	16 State wages, tips, etc.	17 State income tax	18 Local wages, tips, etc.	19 Local income tax	20 Locality name
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# 1099s and other annual forms – general information

## **You may be required to file electronically**

If you file 50 or more Wisconsin copies of Form 1099, you must file electronically with the Wisconsin Department of Revenue (WDOR). If you file 250 or more federal copies of Form 1099, you must file electronically with the IRS. The federal thresholds apply separately to each type of Form 1099. To register for electronic filing, complete Form 4419, "Application for Filing Information Returns Electronically," at least 30 days before the due date of the returns. No registration is needed for the WDOR. See [page 20](#) for electronic filing addresses.

## **Form 1099**

You may be required to file Form 1099 or other annual information returns for one or more of a variety of items you paid or received during the year. Penalties for failure to file are severe. For frequently used forms and basic filing guidance, see [page 16](#). Generally, with the exception of payments to attorneys, Form 1099 is only required to be filed to report payments to non-corporate payees.

## **Form 1096**

Form 1096 is the summary and transmittal form required to be filed with Copy A of all Forms 1099, 1098, 3921, 3922, 5498, and W-2G. Prepare and file a separate Form 1096 with each type of form, as well as all corrected forms. Form 1096 applies to paper information returns only. Send the forms in a flat mailing envelope. Do not fold them.

## **Reporting payments to attorneys**

You must report payments to attorneys whether or not the recipient is incorporated. Report fees totaling \$600 or more for legal services paid in the course of your trade or business on Form 1099-MISC, box 7. Report in box 14 payments to an attorney made in the course of your trade or business in connection with legal services, such as in a settlement agreement, less the attorney's fees reported by you in box 7, if identifiable.

## **How to report certain items**

Referral commissions and split fees paid by one professional to another, or by one tradesperson to another, are considered nonemployee compensation. Report these fees on Form 1099-MISC in box 7 if the recipient is an attorney or is not incorporated.

## **Required format for preparing Forms 1096, 1098, 1099, 5498, and W-2G**

Do not use commas, \$, &, \*, #, or other special characters. Show the cents portion of the money amounts (for example, report \$1,000 as 1000.00). Do not enter "0" or "none" in boxes where no entry is required. Use either the official forms provided by the IRS or substitute forms that meet IRS specifications; do not use photocopies of any form. Report information only in the appropriate boxes provided on the forms.

Do not change the title of any box on any form. Do not use prior year forms unless you are reporting prior year information. Do not cut, tear, separate, staple, or tape Copy A of the forms. You must remove pinfeed strips and/or perforated edges from Copy A, the copy that must be submitted to the IRS. All sheets submitted to the IRS must conform to the 8" x 11" size requirement. A penalty of \$50 per incorrectly filed document may apply if you fail to follow the required format.

Substitute statements must contain the tax year, form number, and form name prominently displayed together in one area of the statement (example: upper right of statement).

## **Required telephone number on Forms 1098 and 1099**

You are required to include your telephone number in any conspicuous area on Forms 1098 and/or 1099 that you issue. This number must provide direct access to an individual who can answer questions about the statement. Penalties for failure to include all information will apply if you do not provide a telephone number.

## **Wisconsin requirements**

The WDOR will accept a copy of federal information Form 1099-MISC or Form 1099-R in lieu of the Wisconsin information return, Form 9b. You are not required to file information returns with the WDOR for payments of interest, dividends, liquidating dividends, or prizes and awards.

The WDOR does not require or provide a separate transmittal form. Use WT-7 for Forms 1099 that have state withholding.

## **Call us for assistance**

It is your responsibility to determine which information returns you must file, and to make sure you file them on a timely basis. Let us know if you have questions or need assistance with this task.

# 1099s – frequently used forms, basic filing guidance, and due dates

	Minimum amount to report		Due dates <sup>†††</sup>		
	IRS	WI	Recipient	IRS	WI
<b><u>1099-DIV (N/A for WI)</u></b>					
Distributions paid on stock, such as dividends, capital gains, or non-taxable distributions	\$10	N/A	Jan. 31	Feb. 28 <sup>†</sup>	N/A
Distributions in liquidation	\$600	N/A	Jan. 31	Feb. 28 <sup>†</sup>	N/A
<b><u>1099-INT (N/A for WI)</u></b>					
Interest payments by financial institutions	\$10	N/A	Jan. 31	Feb. 28 <sup>†</sup>	N/A
Interest payments made in the course of a trade or business	\$600	N/A	Jan. 31	Feb. 28 <sup>†</sup>	N/A
<b><u>1099-MISC (Form 9b for WI, if desired)</u></b>					
Royalty payments	\$10	\$600	Jan. 31	Feb. 28 <sup>†</sup>	††
Rents	\$600	\$600	Jan. 31	Feb. 28 <sup>†</sup>	††
Payment for services rendered to a trade or business:					
• By individuals not treated as employees, including single-member LLCs	\$600	\$600	Jan. 31	Feb. 28 <sup>†</sup>	Feb. 28
• By partnerships and LLCs operating as partnerships	\$600	\$600	Jan. 31	Feb. 28 <sup>†</sup>	Feb. 28
• By all attorneys and law firms, whether or not incorporated	\$600	\$600	Jan. 31	Feb. 28 <sup>†</sup>	Feb. 28
Note: If the service provider is an incorporated trade or business, Form 1099-MISC is not required unless the service provider is an attorney or law firm.					
Gross proceeds to attorneys for settlements where legal fees are not separately stated (see <a href="#">page 15</a> )	Any amount	N/A	Feb. 15	Feb. 28 <sup>†</sup>	N/A
Prizes and awards that are not for services rendered	\$600	N/A	Jan. 31	Feb. 28 <sup>†</sup>	N/A
Direct sales of consumer goods for resale (except for sales to permanent retail establishments)	\$5,000	N/A	Jan. 31	Feb. 28 <sup>†</sup>	N/A
<b><u>1099-PATR (N/A for WI)</u></b>					
Distributions from cooperatives to their patrons	\$10	N/A	Jan. 31	Feb. 28 <sup>†</sup>	N/A
<b><u>1099-R (Form 9b for WI, if desired)</u></b>					
Distributions from pensions, annuities, retirement or profit-sharing plans, IRAs, insurance contracts, etc.	\$10	\$600	Jan. 31	Feb. 28 <sup>†</sup>	Feb. 28
<b><u>1099-S (N/A for WI)</u></b>					
Statement of proceeds from real estate transactions (Special rules apply for principal residences)	\$600	N/A	Feb. 15	Feb. 28 <sup>†</sup>	N/A
<b><u>Form 1098 (N/A for WI)</u></b>					
Mortgage interest, including reportable points and certain mortgage insurance premiums, received in the course of your trade or business from any one individual for the calendar year	\$600	N/A	Jan. 31	Feb. 28 <sup>†</sup>	N/A

1099-R is also required if any amount of WI tax is withheld.

Note: See [page 17](#) for backup withholding that may apply to information returns.

- † Due March 31 if filed electronically.
- †† Due March 15 for corporations and February 28 for other taxpayers.
- ††† If any date shown falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.

# IRS matching notices related to 1099s; verifying names and numbers; backup withholding

## IRS matching notices related to 1099 preparation

The IRS has procedures for matching recipients' names and identification numbers reported on Forms 1099 and 1098 to the names registered with the Internal Revenue Service and/or Social Security Administration. Issuing Form 1099 or 1098 in the wrong name can lead to penalties for failure to report the correct information. The proper reporting method differs, based on whether the recipient is a corporation or partnership, sole-proprietor, single-member LLC, or an individual.

- Corporations and partnerships: You should verify with the recipient that the name and identification number on your records agrees exactly with the name and identification number registered with the Internal Revenue Service.
- Sole proprietors, single-member LLCs, and individuals: You **must** use the individual's name as recorded with the Social Security Administration on the first name line. You may use the business name on the second line, but not on the first line. On forms issued to sole proprietors and single-member LLCs, you may use either the proprietor's social security number or federal employer identification number.
- Multiple recipients (joint accounts): If you made payments to more than one recipient, or if the account is in more than one name, show the name of the recipient whose TIN is first shown on the return as the **ONLY** name on the first name line. You may show the names of any other individual recipients in the area below the first line.

Use Form W-9, "Request for Taxpayer Identification Number and Certification," to obtain the proper reporting information from businesses or individuals for whom you must report payments on Forms 1098 or 1099. Failure to obtain the correct taxpayer identification number and/or name may subject future payments to backup withholding.

## Verifying names and numbers reported on information returns – TIN Matching Program

For verifying names and numbers reported on information returns (Forms 1099), the IRS offers a Taxpayer Identification Number (TIN) Matching Program via the Internet. Currently there is no fee to participate; however, third-party payers and their authorized agents must sign an online "Terms of Agreement" clause. The TIN Matching Program is explained in Publication 2108-A, available at <http://www.irs.gov>.

## Backup withholding requirements

Backup withholding is required if a payee fails to furnish you with the correct taxpayer identification number (TIN) or if the IRS notifies you that the payee is subject to backup withholding. The mandatory backup withholding rate is 28% for all payments until the payee furnishes you with the TIN in the manner required. Most payments, including nonemployee compensation, are subject to backup withholding even if the payee has applied for a TIN. Payees of interest and dividends may avoid backup withholding for up to 60 days by noting "Applied For" in the TIN block of Form W-9 and signing the form. However, you must begin backup withholding after 60 days if the payee fails to furnish you with the new TIN. For all payments, you may stop backup withholding once the payee provides you with the correct TIN in the manner required.

If you are required to withhold, but fail to do so and the IRS discovers it, expect an assessment for backup withholding in addition to any failure to file penalties and trust fund recovery penalties. The backup withholding assessment can, depending on the aggregate amount required to be reported, easily skyrocket to far more than the usual \$100 per form penalty for the intentional failure to file.

For example, if you paid \$600 or more during the year to each of several unincorporated service providers and failed to file information returns, the penalty for intentional nonfiling would be \$100 per Form 1099, your backup withholding assessment would be 28% of the aggregate amount required to be reported on the information returns, and your trust fund recovery penalty would be another 28%. You must report backup withholding on Form 945.

# Unemployment compensation tax – general information and certain Wisconsin requirements and elections

## **Who must file**

Federal and Wisconsin unemployment taxes generally apply to employers who, during the current or preceding calendar year, (1) had one or more employees working at least some part of the day in each of 20 or more calendar weeks, (2) paid wages of \$1,500 or more in any calendar quarter, or (3) acquired a business or a portion of a business of an employer subject to Wisconsin unemployment taxes. Different rules apply to household, agricultural, and nonprofit employers.

## **UC tax rates**

The net federal UC rate for 2009 and 2010 is generally 0.8%. This is a result of the federal unemployment compensation rate of 6.2%, less the maximum credit of 5.4% for timely-paid state unemployment taxes paid in the current year and detailed on Form 940.

The Wisconsin UC rate is determined on an individual employer basis. Rates vary depending on total taxable payroll, and other factors are considered – such as whether a business is a “new employer” and/or whether the employer is in the construction industry.

## **Quarterly filing - federal**

Although federal UC tax Form 940 is required on an annual basis, you must compute your federal unemployment tax liability on a quarterly basis to determine whether you need to make a UC tax deposit. Deposits for the first three calendar quarters of the year are required only if your cumulative undeposited tax liability at the end of the quarter is more than \$500. These deposits are due by the last day of the month after the end of the quarter.

If your cumulative undeposited tax liability at the end of the year exceeds \$500, deposit this amount either electronically (EFTPS), or at your financial institution with a federal tax deposit coupon. If your cumulative undeposited tax liability is \$500 or less, you may pay it with Form 940. In order to be eligible for a 10-day extension of the due date for filing Form 940, you must deposit any tax due on or before February 1.

## **Quarterly filing - Wisconsin**

Wisconsin unemployment compensation contribution and wage reports must be received by the Department of Workforce Development by the end of the month following the end of the calendar quarter. For employers with less than 25 employees on a quarterly basis, Wisconsin supplies UC forms with the employer's contribution rate preprinted on the forms.

Wisconsin requires employers with 25 or more employees to file their contribution report (UCT-101) online and use magnetic or electronic media for wage reporting. These reports may be submitted using the Internet, diskettes, and CDs.

## **Election to exclude corporate officers from Wisconsin UC coverage**

Under current Wisconsin law, officers of a corporation generally may collect no more than four weeks of unemployment compensation benefits. However, the corporation must pay UC taxes on all officers' wages up to the maximum base. A corporation with a prior year taxable payroll of \$500,000 or less may elect to exclude the wages of all officers with at least 25% direct ownership of the corporation from coverage under Wisconsin UC rules.

These wages will still be subject to federal UC taxes since the IRS has not adopted this special provision. If you make this Wisconsin election, you must complete Line 10 in Part 3 on your 2009 federal Form 940 about taxable FUTA wages excluded from state unemployment tax.

You must file your election by March 31, 2010, for it to be effective for 2010. If you filed an election in a previous year, it will remain in effect for the current year unless revoked. Once this election is revoked, it cannot be reinstated. We encourage you to contact us before filing any election to determine whether such an election will save or cost more in terms of combined state and federal UC taxes.

## Addresses – paper forms

(Non-Wisconsin businesses, see appropriate forms for filing addresses)

Form(s)	Due date(s)	If no payment is due	If payment is due with the return
<b>Wage statements – new e-file rules apply for Wisconsin. See <a href="#">page 20</a>.</b>			
<b>FEDERAL</b> W-3 and Copy A of W-2	March 1	SOCIAL SECURITY ADMINISTRATION DATA OPERATIONS CENTER WILKES-BARRE PA 18769-0001 (if mailing certified, use ZIP code 18769-0002)	Not applicable
<b>WISCONSIN</b> Cover letter <sup>‡</sup> and Copy 1 of W-2	Feb. 1	WISCONSIN DEPT OF REVENUE PO BOX 8920 MADISON WI 53708-8920	Refund or tax due: WISCONSIN DEPT OF REVENUE PO BOX 8981 MADISON WI 53708-8981
<b>EMPLOYEE</b> Copies B, C, & 2	Feb. 1	N/A	N/A
<b>Employer's withholding tax returns</b>			
<b>FEDERAL</b> 941	End of month after calendar quarter	DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE CINCINNATI OH 45999-0005	INTERNAL REVENUE SERVICE PO BOX 804522 CINCINNATI OH 45280-4522
943	Feb. 1	DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE CINCINNATI OH 45999-0008	INTERNAL REVENUE SERVICE PO BOX 804523 CINCINNATI OH 45280-4523
944	Feb. 1	DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE CINCINNATI OH 45999-0044	INTERNAL REVENUE SERVICE PO BOX 804522 CINCINNATI OH 45280-4522
<b>WISCONSIN</b> WT-6	Varies, depending on your reporting period	WISCONSIN DEPT OF REVENUE BOX 930931 MILWAUKEE WI 53293-0931	WISCONSIN DEPT OF REVENUE BOX 930931 MILWAUKEE WI 53293-0931
<b>Other withholding tax returns</b>			
<b>FEDERAL</b> 945	Feb. 1	DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE CINCINNATI OH 45999-0042	DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE PO BOX 804524 CINCINNATI OH 45280-4524
<b>Unemployment tax returns</b>			
<b>FEDERAL</b> 940	Feb. 1	DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE CINCINNATI OH 45999-0046	INTERNAL REVENUE SERVICE PO BOX 804521 CINCINNATI OH 45280-4521
<b>WISCONSIN</b> UCT-101 applicable wage report	Received by end of month after calendar quarter	DEPT OF WORKFORCE DEVELOPMENT UNEMPLOYMENT INSURANCE DIVISION PO BOX 7945 MADISON WI 53707-7945	<i>With payment or if paying by EFT:</i> DEPT OF WORKFORCE DEVELOPMENT UNEMPLOYMENT INSURANCE DIVISION PO BOX 78960 MILWAUKEE WI 53278-0960
<b>Information returns – new e-file rules apply for Wisconsin. See <a href="#">page 20</a>.</b>			
<b>FEDERAL</b> 1096 and 1099, 1098, or 5498	See <a href="#">page 16</a>	DEPARTMENT OF THE TREASURY INTERNAL REVENUE SERVICE CENTER KANSAS CITY MO 64999	Not applicable
<b>WISCONSIN</b> 9b (or state copy 1099) <sup>‡</sup>	See <a href="#">page 16</a>	WISCONSIN DEPT OF REVENUE PO BOX 8932 MADISON WI 53708-8932	Not applicable

<sup>‡</sup> Send 1099Rs with state withholding and a cover letter (same as Copy 1 of Form W-2).

- Note:
- See federal and state instructions for alternate addresses if not using the U.S. Postal Service.
  - Use mailing labels provided by federal and state taxing authorities whenever possible.
  - “To be determined” indicates that the IRS has not yet issued the filing instructions for these 2009 forms. Please check the instructions when the IRS provides them. We will update our online version of this guide as certain information becomes available. Visit our website at [schencksc.com](http://schencksc.com) for the most current version.

## Addresses – electronic filing

### And magnetic media filing for Wisconsin unemployment wage reports (Non-Wisconsin businesses, see appropriate forms for filing addresses)

**Note:** If you file 50 or more Wisconsin copies of Forms W-2 or 1099, you must file electronically with the Wisconsin Department of Revenue (WDOR). If you file 250 or more federal copies of Forms W-2, 1099, 1098, and 5498, you must file electronically with the SSA or IRS. These thresholds apply separately to each type of form. Wisconsin continues to allow magnetic media for UCT-101.

<u>Form(s)</u>	<u>Due date</u>	<u>Where to file</u>
<b>Wage statements</b>		

<b>FEDERAL</b> W-2	March 31	<a href="http://www.ssa.gov/bsowelcome.htm">http://www.ssa.gov/bsowelcome.htm</a>
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<b>WISCONSIN</b> W-2	Feb. 1	<a href="http://www.revenue.wi.gov/html/with.html">www.revenue.wi.gov/html/with.html</a> Click on "W-2, 1099, W-2G & 3K-1 File Transmission."
WT-7	Feb. 1	My Tax Account ( <a href="http://tap.revenue.wi.gov">http://tap.revenue.wi.gov</a> ), or Telefile 608-261-5340 or 414-227-3895

With the Wisconsin mandate to file Form WT-7 electronically and the new Wisconsin requirement to file 50 or more Forms W-2 electronically (see "Note" above), there are fewer options for paper filing. See [page 12](#).

<b>Employer's withholding tax returns</b>		
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<b>FEDERAL</b> 941	End of month after calendar quarter	} For a listing of approved IRS e-file for business providers: <a href="http://www.irs.gov/efile/article/0,,id=118516,00.html">http://www.irs.gov/efile/article/0,,id=118516,00.html</a>
943	Feb. 1	
944	Feb. 1	
945	Feb. 1	

<b>WISCONSIN</b> WT-6	Varies	My Tax Account ( <a href="http://tap.revenue.wi.gov">http://tap.revenue.wi.gov</a> ), or Telefile 608-261-5340 or 414-227-3895 No WT-6 is necessary if payment is made using EFT-ACH credit
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<b>Information returns</b>		
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<b>FEDERAL</b> 1099, 1098, or W-2G	March 31	<a href="http://fire.irs.gov">http://fire.irs.gov</a>
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<b>WISCONSIN</b> 9b or state copy of 1099-MISC or 1099-R	March 1; March 15 for corporations reporting rents or royalties	} <a href="http://www.revenue.wi.gov/html/with.html">www.revenue.wi.gov/html/with.html</a> Click on "W-2, 1099, W-2G, & 3K-1 File Transmission."
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<b>Unemployment tax returns</b>		
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<b>FEDERAL</b> 940	Feb. 1	For a listing of approved IRS e-file for business providers: <a href="http://www.irs.gov/efile/article/0,,id=118516,00.html">http://www.irs.gov/efile/article/0,,id=118516,00.html</a>
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<b>WISCONSIN</b> UCT-101 Applicable wage report	Received by the end of the month after the calendar quarter	For electronic filing: <a href="http://dwd.wisconsin.gov/uitax/">http://dwd.wisconsin.gov/uitax/</a> Click on "File tax and wage reports." For magnetic media filing: DWD-UI WAGE REPORTING PO BOX 7962 MADISON WI 53707-7962
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**Note:** Wisconsin requires electronic or magnetic media reporting when you have 25 or more employees in a calendar quarter.



## Payroll Processing and Other Business Solutions

When you trust your payroll processing to Schenck, you can dedicate your time to doing what you do best – managing your business. Our payroll professionals stay up-to-date on changes to complex payroll tax laws and reporting, including IRS deposit requirements for payroll taxes, new tax limits, taxability of employee benefits, changing W-2 formats, and other payroll concerns. In addition to providing ease of processing throughout the year, we will print and electronically file your W-2s and assist you with any other filing needs you may have. Our well-trained payroll team has the expertise to handle payroll processing and reporting for businesses of any size and will deliver quality payroll solutions on time, every time, to your most important asset – your employees.

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