



50.10 Annual U.S. Information Returns

50.10.10

January 1, 2004

What are annual U.S. information returns?

In the course of state business activities, agencies may make certain payments to others that must be reported to the Internal Revenue Service (IRS). Copies of information returns must be furnished to recipients for payments reported.

For payroll related transactions, IRS Forms W-2 are required to be transmitted to the Social Security Administration (SSA) accompanied by a Form W-3, Transmittal of Wage and Tax Statements.

For non-payroll related transactions, the most common annual information returns include Form 1098s (1098, 1098-E, and 1098-T), Form 1099s (1099-G, 1099-INT, 1099-MISC, and 1099-R), and Form W-2G. These forms are transmitted to IRS with Form 1096, Annual Summary and Transmittal of U.S. Information Returns.

Payments to foreign persons paid U.S. source income must be reported to the payee and IRS on IRS Form 1042-S. These forms are transmitted to IRS with Form 1042-T, Annual Summary and Transmittal of Forms 1042-S.

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The purpose of these guidelines

To ensure federal reporting compliance, agencies are to obtain current publications and IRS advice as needed. The following guidelines are provided for general informational purposes only, to alert state agencies about compliance issues related to various reporting requirements of the IRS and SSA for annual U.S. Information Returns.

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Key IRS publications and timeframes

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Annual information returns report payments for the calendar year and are generally to be mailed to recipients on or before January 31 of the ensuing year (except for Form 1042-S, due to recipients on or before March 15.) Generally, these forms are due to the IRS by February 28 unless filed

electronically and then the deadline is March 31. Forms 1042-S are due to the IRS March 15. When 250 or more information returns are prepared by an organization (agency), the IRS requires filing on magnetic media and this requirement applies separately for each type of form. SSA Publication MMREF-1 provides specifications for Form W-2. IRS Publication 1220 provides specifications for electronically or magnetically filing forms 1098, 1099, and W-2G.

- 50.10.30.b Annually, during late fall, the IRS mails Publication 393, Federal Employment Tax Forms, to each employer (state agency). Publication 393 contains sample payroll related Forms W-2, W-3, W-2c, and W-3c with completion instructions and a listing of other forms available through IRS TaxFax. Publication 393 also includes Form 7018, Employer's Order Blank for Forms, which agencies may use to order applicable forms for reporting purposes.
- 50.10.30.c The IRS publication, Instructions for Forms 1099, 1098, 5498, and W-2G, provides specific instructions on the filing requirements of these returns. This publication contains a Guide to Information Returns. This guide is a helpful quick reference for form numbers, titles, what to report, amounts to report, and due dates to the IRS and the recipient.
- 50.10.30.d Additional instructions and examples are available from the IRS on their website at <http://www.irs.gov/formspubs/index.html>. Key publications include:
- Publication 15 (Circular E), Employer's Tax Guide;
 - Publication 15-A, Employer's Supplemental Tax guide;
 - Publication 15-B, Employer's Tax Guide to Fringe Benefits;
 - Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Corporations;
 - Publication 519, U.S. Tax for Aliens;
 - Publication 901, U.S. Tax Treaties;
 - Publication 1141, General Rules and Specifications for Private Printing of Substitute Forms W-2 and W-3; and
 - Publication 1179, General Rules and Specifications for Substitute Paper Substitute Forms 1096, 1098, 1099, 5498, W-2G and 1042-S.
- 50.10.30.e For information on all SSA Form W-2 filing methods, forms, publications and other information, refer to the SSA website at <http://www.ssa.gov/employer/how.htm>.

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Taxpayer Information Numbers (TIN) are required

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Required reporting

The Taxpayer Information Number (TIN), name, and address of the recipient are required to be entered on the annual information forms for identification of the payee. The TIN is the social security number (SSN) issued by the Social Security Administration (SSA) or an Employer Identification Number (EIN) issued by the IRS.

For payroll reporting, a Form W-4, Employee's Withholding Allowance Certificate is required to be completed and signed by an employee to obtain SSN information.

For non-payroll reporting for an individual or business, the TIN may be either a SSN or EIN. The best way to obtain and document the payee's TIN and business information is to secure a properly completed signed Form W-9, Request for Taxpayer Identification Number and Certification from the payee. Agencies are encouraged to request and obtain Forms W-9 from vendors when the business relationship is first established and prior to payment for services.

50.10.40.b

IRS penalties

Failure to report a TIN or correct TIN may result in penalties assessed by IRS. Refer to the IRS publication, Instructions for Forms W-2 and W-3 regarding Form W-2 penalties.

For incorrect or missing TIN reporting penalties for other information returns, refer to the IRS Form related publication such as the Instructions for Forms 1099, 1098, 5498, and W-2G.

50.10.40.c

SSA SSN and IRS TIN verification programs

Agencies are encouraged by the SSA and IRS to utilize their respective TIN Verification programs. The protection afforded by these programs functions best when a combination of payroll/vendor system bulk verification processes are performed periodically coupled with agency individual verifications done on a more frequent basis as needed.

The SSA website TIN matching verification program is explained at <http://www.ssa.gov/employer/ssnv.htm> and is to be used only for verifying social security numbers (SSNs) related to payroll transactions.

The IRS website TIN matching verification program is explained at <http://www.irs.gov/taxpros/article/0,,id=107478,00.html> and is to be used for verifying both SSN and TIN numbers related to non-payroll transactions. The IRS website to register for the TIN matching program is <https://la.www4.irs.gov/e-services/Registration/index.htm>. Contact the agency's payroll or vendor system's Help Desk to determine if and when system bulk verifications are done to assist agencies on a periodic basis.

50.10.40.d

When backup withholding is required

Backup withholding is a type of federal income tax *required* to be deducted from certain non-employee transactions under various circumstances, including when the vendor payee fails to furnish a TIN number or provides an incorrect TIN number and will not correct it on a timely basis.

IRS Publication 1281, Backup Withholding For Missing and Incorrect Name/Tin(s) or Publication 1679, A Guide To Backup Withholding For Missing and Incorrect Name/TIN(s) explain the requirements, IRS mismatch process, and penalties that can be assessed.

Note that if an agency encounters a situation where deduction of backup withholding is required, timely deposit to IRS of the federal income tax and annual reporting on IRS Form 945 are also required. These tax deposits must not be co-mingled with payroll tax deposits reported on quarterly Forms 941.

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These U.S. information returns apply to most state agencies

The following U.S. information returns are the most applicable to state agencies. Refer to current calendar year IRS instructions for each form to obtain full reporting requirements.

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Form W-2, Wage and Tax Statement, is issued to report wages and taxable fringe benefits subject to federal income tax withholding, OASI, and/or Medicare employment taxes and all taxes actually withheld for a calendar year. Non-taxable moving expense reimbursements made directly to employees are also reportable.

50.10.50.b

Form W-2G, Statement for Recipients of Certain Gambling Winnings, is used by the State Lottery Commission to report payments for lottery winnings of \$600 or more to a winner and any required federal regular gambling withholding tax withheld from winnings.

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Forms 1098, 1098-E, and 1098-T:

Form 1098, Mortgage Interest Statement, is required to be issued when an agency receives \$600 or more in certain types of mortgage interest during the calendar year.

Form 1098-E, Student Loan Interest Statement, is required to be issued if an agency receives student loan interest of \$600 or more from an individual during the calendar year.

Form 1098-T, Tuition Statement, is required to be issued by an eligible education institution to report qualified tuition and related expenses for each student. Exceptions apply.

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Form 1099-G, Certain Government Payments, is used to report certain government payments including:

- Unemployment compensation payments by the Employment Security Department.
- Certain federal taxable grants of \$600 or more which are administered by the state.
- Amounts of federal income tax withheld under the 31% backup withholding rules.

50.10.50.e

Form 1099-INT, Statement for Recipients of Interest Income, is generally *not* applicable to state governments because of the tax-exempt status for interest on obligations of a state or municipal government. However, if an agency has custody of or administers certain trust funds, there may be reporting requirements.

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Form 1099-MISC, Statement for Recipients of Miscellaneous Income, is used to report a variety of miscellaneous transactions *generally* when the amount of the payment in a calendar year is \$600 or more. If backup withholding has been taken, Form 1099-MISC must be filed, regardless of the payment amount. The most frequently encountered ones are noted below.

- Payments to estates or beneficiaries for deceased employees' wages, whether the payment to the recipient is made in the year of death or a subsequent year.
- Payments for rents.
- Payments for fees, services, commissions, or other forms of compensation to *persons* not treated as employees for services

rendered. Examples are payments for professional services pursuant to personal services contracts and payments to witnesses or experts in legal adjudication.

- Payments to attorneys or gross payments to attorneys.
- Prizes and awards that are not for services rendered. (Report taxable awards to employees on Form W-2.) This excludes payments for lottery winnings paid by the State Lottery Commission which are required to be reported on Form W-2G.
- Payments to physicians or other suppliers or providers of medical or health care services in connection with medical assistance programs, or health, accident, and sickness insurance programs.

Payments to corporations are generally *not* required to be reported except for medical payments, and payments for legal services. Also, generally, payments made to tax-exempt organizations, such as other governmental agencies, social service agencies, and hospitals, are exempt from informational reporting requirements.

Reporting is required for most payments to individuals and partnerships. It is important to know whether the recipient of the payment is doing business as an individual, partnership, corporation, specific business structure of a limited liability entity, or is tax-exempt so correct reporting can be completed.

Do not report business expense reimbursements where the payee's business receipts have been provided to the agency.

50.10.50.g **Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.,** is used to report pension and retirement plan distributions of \$10 or more, whether or not federal income tax is withheld. Also report Internal Revenue Code Section 457 plan (deferred compensation) distributions and any income tax withheld.

50.10.50.h **Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding,** is used to report amounts paid during a calendar year to foreign persons who are subject to withholding even if no withholding amount is deducted and withheld due to a treaty or Code exception or if any amount withheld was repaid to the payee. Refer to the form instructions for which payments must be reported. If required to file Forms 1042-S, Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, must also be filed on an annual basis.

50.10.50.i Use **IRS Form 945, Annual Return of Withheld Federal Income Tax**, to report federal income tax withholding withheld from non-payroll payments such as pensions, backup withholding, and withholding on gambling winnings. Refer to separate tax deposit requirements for Form 945 in the form instructions and IRS Publication 15 (Circular E).

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Federal training opportunities

The reporting and backup withholding requirements of U.S. annual information returns are extensive and failure to comply with them can result in costly penalties.

Questions can be directed to IRS either by telephone or email per contact information provided in IRS publications. It is important that documentation of IRS advice be retained. If the response is by telephone, document the name and badge number of the person providing the advice in case questions arise at a later date.

Agencies are strongly encouraged to attend training classes that are made available to the state by the IRS and SSA. Additionally, there are training classes available from various companies that focus on specific tax issues, such as international taxation, that may be beneficial to those agencies that encounter such types of issues.