
What if you want to file your taxes but can't afford to pay them?

Sometimes taxpayers want to file their taxes on time, but anticipate or already know that they will owe money they can't afford to pay right away. As a result, they put off filing their tax return under the assumption that the IRS can only bill them if they receive the latest outstanding tax return that's due.

If you want to file your taxes right now, you should!

Filing a Tax Return vs. Paying Your Actual Tax Bill

Filing your actual tax return is still the very first thing you should do no matter how much you owe, even if you're filing it late. Doing so will prevent steep penalties from being incurred if you were required to file a tax return. Additionally, if you put off filing your tax return for too long, the IRS might file a substitute return that won't apply any tax benefits and will make their assessment against you larger than it actually should be. Even if you can't afford to put anything toward your tax bill right now, the very least you should do is file your tax return before the deadline every year.

Receiving an Automated Tax Bill From the IRS

If you are unable to pay your taxes, you should still file a tax return without including payment. You can also include a partial payment of any size, even if it's a small amount like \$20. The IRS will not issue a judgment that quickly after you file your return, and even a small payment can help you save some money on interest.

If you do not pay your entire tax bill upon filing your return, the IRS will send an automated bill by mail. You can pay your balance before the bill arrives if you have the money to do so, but getting the bill in the mail doesn't mean you are facing a lien against your bank account.

Interest will accrue on the unpaid balance as long as it goes unpaid, but owing money is a separate concept from filing your tax return on time, so you can and should file even if you can't pay.

States' SALT Deduction Workarounds Shot Down

Article Highlights:

- Limit on Tax Allowed as an Itemized Deduction
- States' Attempted Workarounds
- Supreme Court Ruling
- Final Regulations
- Notice 2019-12

The Treasury Department and the IRS have essentially shot down efforts by several states to help their residents circumvent the \$10,000 cap on the itemized deduction for state and local taxes (SALT).

When the Tax Cuts and Jobs Act (TCJA), aka tax reform, was passed, it imposed a \$10,000 limit on the SALT deduction; this limitation had a greater impact on the residents of states that imposed the highest taxes on their residents. As it turns out, the states with the highest taxes – income or property taxes, or a combination of the two – are all blue (Democratic) states; thus, many saw it as political retribution, causing some state leaders to seek a workaround.

Ultimately, several affected states, including New Jersey, New York, and Connecticut, came up with similar schemes to skirt the \$10,000 limitation. Here is how their workarounds were supposed to have worked.

1. Federal tax law names state and local governments as qualified charities, thus allowing gifts to them to be deducted as a charitable itemized deduction.
2. The states created charitable funds; in turn, a contributor to the fund would receive tax credits.
3. The tax credits could then be used against contributors' SALT liabilities on their state income tax returns or, in some cases, property tax bills. Effectively, taxpayers would get a charitable deduction for their tax payments.

However, the fly in the ointment for these arrangements has turned out to be a 1986 Supreme Court ruling that says that if the taxpayer receives something in return (referred to as "quid pro quo" in legalese) for a contribution, the deductible portion of the contribution is reduced by the fair market value (FMV) of what is received in return for making the contribution.

This concept has been applied uniformly to all charitable contributions since the Supreme Court ruling, which is why many written substantiations from charities will include the FMV of items provided to the donor in return for the donor's charitable contribution.

As a result, when the final tax regulations for the SALT limitation were issued, they followed the Supreme Court ruling and treated the tax credits provided in return for the contribution as "quid pro quo" and not allowable to deduct as a charitable contribution.

If you have questions related to this issue or about the \$10,000 limit on SALT deductions, please give this office a call.

Household Help: Employee or Contractor?

Article Highlights:

- Household Employee Definition
- Employee Control Factors
- Self-employed or Employee
- Withholding Requirements
- Reporting Requirements

Taxpayers often will hire an individual or firm to provide services at the taxpayer's home. Because the IRS requires employers to withhold taxes for employees and issue them W-2s at the end of the year, the big question is whether or not that individual is a household employee.

Determining whether a household worker is considered an employee depends a great deal on circumstances and the amount of control the hiring person has over the job and the worker they hire. Ordinarily, when someone has the last word about telling a worker what needs to be done and how the job should be done, then that worker is an employee. Having a right to discharge the worker and supplying tools and the place to perform a job are primary factors that show control.

Not all those hired to work in a taxpayer's home are considered household employees. For

example, an individual may hire a self-employed gardener who handles the yard work for that individual as well as some of the individual's neighbors. The gardener supplies all tools and brings in other helpers needed to do the job. Under these circumstances, the gardener isn't an employee and the person hiring him/her isn't responsible for paying employment taxes. The same would apply to the person hired to maintain an individual's swimming pool or to contractors making repairs or improvements on the home.

Contrast the following example to the self-employed gardener described above: The Johnson family hired Maclovia to clean their home and care for their 3-year old daughter, Kim, while they are at work. Mrs. Johnson gave Maclovia instructions about the job to be done, explained how the various tasks should be done, and provided the tools and supplies; Mrs. Johnson, and not Maclovia, had control over the job. Under these circumstances, Maclovia is a household employee, and the Johnsons are responsible for withholding and paying certain employment taxes for her and issuing her a W-2 for the year.

W-2 forms are to be provided to the employee by January 31 of the year following the year when the wages were paid and the government's copy of the form – sent to the Social Security Administration – is also due by January 31.

If an individual you hire is considered an employee, then you must withhold both Social Security and Medicare taxes (collectively often referred to as FICA tax) from the household employee's cash wages if they equal or exceed the \$2,100 threshold for 2019.

The employer must match from his/her own funds the FICA amounts withheld from the employee's wages. Wages paid to a household employee who is under age 18 at any time during the year are exempt from Social Security and Medicare taxes unless household work is the employee's principal occupation.

A household employer doesn't have to withhold income taxes on wages paid to a household employee, but if the employee asks to have withholding, the employer can agree to it. When income taxes are to be withheld, the employer should have the employee complete IRS Form W-4 and base the withholding amount upon the federal income tax and FICA withholding tables.

The wage amount subject to income tax withholding includes salary, vacation and holiday pay, bonuses, clothing and other noncash items, meals and lodging. However, if furnished for the employer's convenience and on the employer's premises, meals are not taxable, and therefore they are not subject to income tax withholding. The same goes for lodging if the employee lives on the employer's premises. In lieu of withholding the employee's share of FICA taxes from the employee's wages, some employers prefer to pay the employee's share themselves. In that case, the FICA taxes paid on behalf of the employee are treated as additional wages for income tax purposes.

A household employer who pays more than \$1,000 in cash wages to household employees in any calendar quarter of either the current or the prior year is also liable for unemployment tax under the Federal Unemployment Tax Act (FUTA)."

Although this may seem quite complicated, the IRS provides a single form (Schedule H) that generally allows a household employer to report and pay employment taxes on household employees' wages as part of the employer's Form 1040 filing. This includes Social Security, Medicare, and income tax withholdings and FUTA taxes.

If the employer runs a sole proprietorship with employees, the household employees' Social Security and Medicare taxes and income tax withholding may be included as part of the individual's business employee payroll reporting but are not deductible as a business expense.

Although the federal requirements can generally be handled on an individual's 1040 tax return, there may also be state reporting requirements for your state that entail separate filings.

Another form that is required to be completed when hiring a household employee who works for an employer on a regular basis, is the U.S. Citizenship and Immigration Services (USCIS) Form I-9, Employment Eligibility Verification. By the first day of work, the employee must

complete the employee section of the form by providing certain required information and attesting to his or her current work eligibility status in the United States. The employer must complete the employer section by examining documents (acceptable documents are listed on the I-9) presented by the employee as evidence of his or her identity and employment eligibility. The employer should keep the completed Form I-9 in his or her records and make it available upon request of the U.S. government. It is unlawful to knowingly to hire or continue to employ an alien who can't legally work in the United States.

If the individual providing household services is determined to be an independent contractor, there is currently no requirement that the person who hired the contractor file an information return such as Form 1099-MISC. This is so even if the services performed are eligible for a tax deduction or credit (such as for medical services or child care). The 1099-MISC is used only by businesses to report their payments of \$600 or more to independent contractors. Most individuals who hire other individuals to provide services in or around their homes are not doing so as a business owner.

Please call this office if you need assistance with your household employee reporting requirements or need information related to the reporting requirements for your state. This brief summary is not comprehensive, additional rules and requirements may apply

Thank you for selecting our firm for your tax and accounting needs. We appreciate the confidence you have shown in us, and we remain ready to assist you at any time.

Scott Jensen
Kramer & Jensen, LLC

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