

**Social Security
Administration**

**Internal
Revenue Service**

Reporter

**Inside
this Issue...**

**The FLSA, Tips,
and the Tip Credit**
Page 2

**Did Employees
Contribute Too Much
to Your 401(k) Plan?**
Page 2

**E-Verify—More Customer
Service Innovations**
Page 3

**Reporting Employer-
Sponsored Health
Coverage in Form W-2**
Page 3

**The Taxpayer
Advocate Service:
Your Voice at the IRS**
Page 4

**It's Not too Late for Your
Employees to File Their
2011 Tax Return**
Page 4

**APA Seminar/Webinar:
Year-End Compliance
and New Rules for 2013**
Page 5

Become a Tax Volunteer
Page 5

**The Outreach Corner—
Click, Copy, Paste**
Page 5

**IRS Joins Forces with
SSA and NCSSA for
218 Webinar**
Page 6

**Order IRS's Free
Tax Calendar**
Page 6

Fall 2012

A Newsletter for Employers

Functionality Changes in the Business Services Online (BSO) Application

Have you ever called customer service to have a file (submission) deleted when sent in error? Well, no more phone calls needed. In 2013, you will be able to delete any file (prior to processing) through the Submission Status application.

You can search for the file by Date or WFID and check the file details. If the Submission Status displays "RECEIVED," you will select the "Delete This Submission" button and we will delete your file. Just remember that you cannot retrieve the file if it is scheduled for deletion.

Tax Year 2012 W-2 and W-2C Online Changes

For tax year 2012, Social Security will increase W-2 Online prior year reporting from the current year plus one prior year to the current year plus two prior years. Additionally, the maximum number of Forms W-2c allowed per report changes from 5 to 25. **SSA**

Learn more
[Employer W-2 Filing Instructions and Information](#)

Retirement News for Employers Newsletter

Subscribe to the [Retirement News for Employers](#), a free electronic newsletter for business owners and their tax advisors. The newsletter has great plain-language information about retirement plans, ranging from choosing a plan to recent law changes.

Recent articles include:

- **Plan Errors** – tips on how to find, fix and prevent common mistakes found in various types of retirement plans, including SEPs, SIMPLE IRA, SARSEP and 401(k) plans.
- **Desk Side Chat** – common issues found during audits of retirement plans.
- **We're Glad You Asked!** – answers to questions from employers, such as how to transfer SIMPLE IRA balances and required minimum distributions from plans.
- **Mark Your Calendar** – reminders on mandatory plan filing and notice deadlines!
- **Retirement Tips for Individuals** – information to share with employees on retirement savings topics, such as matching contributions and the Saver's Credit for plan and IRA contributions. **IRS**

[Subscribe](#) to *Retirement News for Employers*.

Advantages to Electronically Filing Form 8955-SSA

Do you send IRS Form 8955, *Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits*? Did you know you could file it electronically?

Filing electronically ensures information transmits accurately to IRS and promptly forwarded to Social Security. It also ensures Social Security will notify an individual of potential retirement benefits when they apply for Social Security benefits.

Plan administrators can visit the IRS website to read [Employee Plans News – June 9, 2012 – Form 8955-SSA and the FIRE System](#) for more information. **SSA**

Learn more
[Form 8955-SSA Resources](#)

The FLSA, Tips, and the Tip Credit

Possibly the most basic of all payroll and employment laws is the Fair Labor Standards Act of 1938 (FLSA), which governs minimum wage, overtime pay, recordkeeping by employers, child labor restrictions, and equal pay for equal work. It is also equally important for employers to be aware of what the FLSA does not require.

The law does not require employers to:

- provide paid vacations, sick days, jury duty leave, holidays, lunch breaks, or coffee breaks;
- regulate how often employees must be paid, or when they must be paid after termination of employment; or
- restrict the hours that employees over 16 years of age may be required to work.

Certain provisions in the FLSA govern the treatment of “tipped employees.” A tipped employee is an employee who works in an occupation in which they regularly receive more than \$30 a month in tips.

Employers are required to pay tipped employees only \$2.13 per hour in wages, so long as the employee’s tips are enough to make up the remainder of the minimum hourly wage then in effect (currently, \$7.25 per hour). If the employee’s tips do not bring the employee’s total wages up to the current minimum wage, the employer must make up the difference.

Tips are the property of the employee and the employer is prohibited from using an employee’s tips for any reason other than towards the tip credit or a valid tip pool. The FLSA allows an

employer to take a tip credit toward the minimum wage it is required to pay tipped employees. This credit is the difference between the required cash wage (\$2.13) and the federal minimum wage (\$7.25). Therefore, the maximum tip credit an employer can claim under the FLSA is \$5.12 (\$7.25 – \$2.13).

For employers to take advantage of the tip credit, they must meet the following conditions:

The tipped employee must actually receive at least as much in tips as the credit taken by the employer.

- The employee must be informed about the tip credit provisions of the law before the credit is taken, including:
 - The direct cash wage the employer is paying tipped employees;
 - The additional amount the employer is using as a tip credit, up to the difference between the minimum wage and the direct cash wage;
 - That the tip credit may not exceed the actual amount of tips received by the employee;
 - That the tip credit does not apply to tipped employees unless the employee has been informed about the FLSA’s tip credit provisions; and
 - That the tips received by tipped employees must be retained by the employees except under legitimate tip pooling arrangements.
- All tips received by the employee must be kept by the employee, although tip pooling may be

required among employees who are customarily and regularly tipped.

- Credit card tips must be given to the employee by the next payday, although the credit card company’s percentage charge for the use of the card may be deducted from the tip.

The FLSA’s tip credit rules do not apply to a tipped employee unless all tips received by the employee are retained by him/her, although valid tip pooling arrangements are allowed. Therefore, employees should receive tips free and clear and any arrangement that allocates part of an employee’s tips as property of the employer violates the tip credit provisions of the FLSA.

Service charges should also be considered when dealing with tipped employees. A service charge is usually a compulsory charge that a business adds to a customer’s bill. When service charges are automatically added to customers’ bills and then turned over to employees, these amounts are not tips and are not considered wages for purposes of determining whether the minimum wage has been paid.

Some states have laws prohibiting the use of tip credits or providing for lower tip credit amounts than the FLSA permits. In this instance, if the state law results in more favorable treatment for employees, it must be followed by employers operating in those states. The employer must figure the minimum wage required under both federal and state law and then apply the law providing the higher cash payment to the employee. **APA**

Did Employees Contribute Too Much to Your 401(k) Plan?

If employees contribute more than the 2012 annual limits to your 401(k) plan, then your plan must distribute the excess salary deferrals with earnings.

Otherwise the plan may be disqualified. Also, unless the plan makes the distribution by April 15, 2013, employees will be taxed twice on the excess amounts.

Employees can mistakenly make excess salary deferrals. Perhaps they work for different businesses

in your company that run separate payrolls. No matter how it happens, the plan has to distribute the excess salary deferrals.

2012 salary deferral limits

- \$17,000 for 401(k) and 403(b) plans, plus \$5,500 if the plan allows catch-up contributions for employees who are age 50 or older by the end of the 2012.

- \$11,500, for SIMPLE 401(k) and SIMPLE IRA plans, plus \$2,500 for catch-up contributions if the plan allows catch-up contributions for employees who are age 50 or older by the end of the 2012.

If your plan has excess deferrals, read our article, [“Fixing Common Plan Mistakes — Excess Deferrals”](#) and use our [401\(k\) Fix-it Guide](#) to fix this mistake.

E-Verify— More Customer Service Innovations

E-Verify is an easy-to-use online service that allows employers to verify the employment eligibility of their new hires. Employers at more than one million worksites use this service, administered by the Department of Homeland Security in partnership with the Social Security Administration, to help ensure they have a legal workforce. The [E-Verify](#) program is committed to being responsive to the public and giving outstanding customer support. E-Verify is supporting its customers with other innovative tools.

E-Verify Listens Collects Users' Ideas

E-Verify is piloting an innovative online forum, [E-Verify Listens](#), to gather ideas from users to improve the service. E-Verify Listens enables registered E-Verify users to share their ideas about enhancing E-Verify, as well as comment and vote on other ideas. As ideas trend in popularity, E-Verify will consider implementing them and will communicate updates regularly to the E-Verify Listens community. The contributions on E-Verify Listens will help E-Verify tailor the program to meet user needs. You can find E-Verify Listens and register at www.E-VerifyListens.ideascale.com.

Helpful Information for Reporting Employer-Sponsored Health Coverage in Form W-2 is on IRS.gov

The IRS has added the [Form W-2 Reporting of Employer-Sponsored Health Coverage](#) page to IRS.gov to help employers make sure they understand their reporting obligations. The new information includes:

- A chart detailing the types of coverage to report
- An explanation of transition relief for many employers
- Q&As about the reporting requirements

The Affordable Care Act requires employers to report the aggregate cost of coverage provided under an employer-sponsored group health plan on an employee's Form W-2, *Wage and Tax Statement*, in Box 12, using Code DD.

Many employers are eligible for transition relief for tax-year 2012 and beyond, until the IRS issues further guidance for this reporting requirement.

The amount reported does not affect tax liability, as the value of the employer's excludible contribution to health coverage continues to be excludible from an employee's income, and it is not taxable. This reporting is for informational purposes only, to show employees the value of their health care coverage so they can be more informed consumers. **IRS**

E-Verify Self-Assessment Checklists

E-Verify provides self-assessment guides to support its customers' compliant use of E-Verify. E-Verify participants can download the [Self-Assessment Guide for E-Verify Direct Access Users](#) and the [Self-Assessment Guide for E-Verify Web Services Users](#) from the Publications page of the E-Verify website.

The new guides include easy-to-follow checklists. These checklists help E-Verify participants develop their own internal E-Verify monitoring program. Use of the checklists is not mandatory. Rather, they are tools to help employers comply with the rules and regulations outlined in the E-Verify Memorandum of Understanding (MOU).

Customer Survey

The E-Verify program strives to meet the needs of its diverse customers. To help provide the best customer service, it participates in the American Customer Satisfaction Index (ACSI), a national indicator of customer satisfaction. In 2011 a random sample of E-Verify users were surveyed on their satisfaction with the program. E-Verify received an overall customer satisfaction rating of 85, a three point increase from the 2010 survey.

E-Verify also scored well when compared to its federal government counterparts; E-Verify's score was 20 points above the current federal government average.

Free Webinars

Want to learn more about Form I-9, E-Verify and [Self Check](#)? U.S. Citizenship and Immigration Services (USCIS) of DHS schedules free live webinars about the Form I-9 and E-Verify program. Available topics are:

- [Form I-9](#)
- E-Verify Overview
- E-Verify for Existing Users
- E-Verify for Federal Contractors and
- Self Check

Visit the [E-Verify website](#) for a list of upcoming webinars.

E-Verify Connection

Do you want to receive news and tips about using Form I-9, E-Verify, and Self Check? Then [subscribe](#) to [E-Verify Connection](#), an e-newsletter for employers. Past issues of the *E-Verify Connection* are archived [here](#). **USCIS**

SSA/IRS Reporter

SSA/IRS Reporter is published quarterly, Spring (March), Summer (June), Fall (Sept.), and Winter (Dec.) by the IRS Small Business/Self-Employed Communications Office.

Comments may be sent to Gwen Dawson-Green, Editor, Gwen.D.Dawson-Green@irs.gov

Mail: Internal Revenue Service
Small Business/Self-Employed Communications
and Stakeholder Outreach
Room 1010, Product Development Group
1100 Commerce Street
Dallas, TX 75242-1027

e-mail: SSA_IRS_REPORTER@irs.gov

The Taxpayer Advocate Service: Your Voice at the IRS

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that helps taxpayers who are experiencing unresolved federal tax problems. Here are ten things every business owner should know about TAS:

1. The Taxpayer Advocate Service is your voice at the IRS.
2. Our service is free and tailored to meet your needs.
3. You may be eligible for our help if you've tried to resolve your tax problem through normal IRS channels and have gotten nowhere, or you face (or your business is facing) an immediate threat of adverse action.
4. **The worst thing you can do is nothing at all!**


5. We help taxpayers whose problems are causing financial difficulty or significant cost, including the cost of professional representation. *This includes businesses as well as individuals.*

6. If you qualify for our help, we'll do everything we can to get your problem resolved. You'll be assigned to one advocate who will be with you at every turn.

7. We have at least one local Taxpayer Advocate office in every state, the District of Columbia, and Puerto Rico. You can call your local advocate, whose number is in your phone book; in Pub. 1546, *Taxpayer Advocate Service – Your Voice at the IRS*; and on our website at www.irs.gov/advocate. You can also call our toll-free number at 1-877-777-4778.

8. As a taxpayer, you have rights that the IRS must abide by in its dealings with you. Our tax toolkit at www.TaxpayerAdvocate.irs.gov can help you understand these rights.

9. TAS also handles large-scale or systemic problems that affect many taxpayers. If you know of one of these broad issues, please report it to us through our Systemic Advocacy Management System at www.irs.gov/advocate.

10. You can get updates on hot tax topics by visiting our YouTube channel at www.youtube.com/tasnta and our Facebook page at www.facebook.com/YourVoiceAtIRS, by following our Tweets at twitter.com/YourVoiceatIRS, and by reading the National Taxpayer Advocate's blog at www.taxpayeradvocate.irs.gov/Blog. 

Five Good Reasons Why it's Not too Late for Your Employees to File Their 2011 Tax Return

Believe it or not, kids don't always have to separate parents from their money. Sometimes they can actually help parents keep some. Remind your employees that if they haven't filed their 2011 tax return yet, they have five good reasons to file today.

Adoption Credit

Parents may be able to take a tax credit for qualifying expenses paid to adopt an eligible child. In general, the credit is based on the reasonable and necessary expenses related to a legal adoption, including adoption fees, court costs, attorney's fees and travel expenses. For tax year 2011, the [adoption credit](#), at up to \$13,360 per child, is the largest refundable tax credit available to individual taxpayers.

If you have an employee who can claim the adoption credit, they must file a paper tax return and Form 8839, *Qualified Adoption Expenses*, with [required adoption-related documents](#). Because of this requirement, anyone claiming the adoption credit must file a paper return and must attach all required documentation.

Child Tax Credit

They may be able to take this credit for each of their children under age 17. The [Child Tax Credit](#) may be worth as much as \$1,000 per qualifying child depending upon their income. If they can't claim the full amount of the Child Tax Credit, they may be eligible for the Additional Child Tax Credit.

More information can be found in the IRS [Publication 972](#), *Child Tax Credit*.

Child and Dependent Care Credit

Your employees may be able to claim the [Child and Dependent Care Credit](#) if they pay someone to care for their children, age 13 or younger, so they can work or look for work.

IRS [Publication 503](#), *Child and Dependent Care Expenses*, has more information.

Earned Income Tax Credit

The [EITC](#) is a tax benefit for people who work and have earned income from wages, self-employment or farming. EITC reduces the amount of tax owed and may also give a refund. To qualify, your employees must meet certain requirements and file a tax return — even if they


don't owe any tax or aren't required to file, they must file and claim the credit.

Individuals can find out if they are eligible for EITC by answering questions and providing basic income information. The EITC Assistant estimates the amount of their EITC and is available in [English](#) and [Spanish](#).

Education Credit

[Education tax credits](#) can help offset the costs of higher education by letting people claim qualifying education-related expenses. The American Opportunity Tax Credit and the Lifetime Learning Credit can be subtracted in full from federal income tax, not just deducted from taxable income. A portion of the American Opportunity Tax Credit is refundable if no other outstanding debt exists.

[Publication 970](#), *Tax Benefits for Education*, and [Form 8863](#), *Education Credits (Hope and Lifetime Learning Credits)*, have more information.

For information about these credits and much, much more, visit the [IRS YouTube Channel](#). 

APA Seminar/Webinar: Year-End Compliance and New Rules for 2013

The American Payroll Association's *Preparing for Year-End and 2013* provides updates on the latest changes in legislation and regulations that affect the close of 2012 and the first payroll of 2013, including:

- Reporting the cost of employer-sponsored health insurance on Form W-2
- Year-end preparation checklist and dates for completion
- Implementing disaster recovery plans as part of your year-end preparation
- Expansion of state requirements to use E-Verify to determine employment eligibility
- Fringe benefit taxation and reporting
- Annually announced values (pension plan and other benefit limits, mileage rates, etc.)

Any of the one-day seminars can be attended at locations around the country. If you cannot get out of the office, all four segments of the class are offered as webinars online, both live and on demand. Other seminars/webinars are offered by the APA that have been customized for public sector payrolls, Canadian payrolls, and accounts payable professionals. There is also a four-segment webinar covering advanced year-end issues, including complex fringe benefit taxation and reporting requirements.

For more information, visit www.americanpayroll.org/course-conf and look under the Specialty Seminars or Webinar headings for the version of *Preparing for Year-End and 2013* that suits your needs. **APA**

Editor's Note: The American Payroll Association's strong partnership with the IRS and SSA allows it to prepare its classes and publications, such as The Payroll Source®, with the most accurate and up-to-date information to educate employers. More information about the APA is available at www.americanpayroll.org.

Take the Step to Become a Tax Volunteer—a Chance to Touch Many Lives

Ever thought about volunteering to help people with their tax returns? With more than 13,000 volunteer tax help sites nationwide, you can touch lives as a volunteer. Volunteering in either the Volunteer Income Tax Assistance or Tax Counseling for the Elderly program can be rewarding while serving a vital role in your local community.

The VITA and TCE programs generally offer free tax help to people with low-to-moderate income who need assistance in preparing their own tax returns. This includes people with disabilities and those for whom English is a second language.

These programs are always looking for volunteers during the tax filing season.

Volunteering can be exciting, educational and enjoyable. As a volunteer, you'll get to interact directly with people who need help preparing their own tax returns at no cost to them. Don't know that much about taxes? Don't worry — you'll get specialized training from IRS-certified volunteers. You can also choose your volunteer duty. Duties include being a greeter, a reviewer, a tax preparer and more. The hours are flexible, the training is free and the time commitment is minimal.

Taxpayers rely on volunteers for free quality tax return preparation and assistance each year. Last year, nearly 99,000 volunteers at thousands of sites nationwide helped more than 3 million taxpayers.

To learn more, complete and email the [Form 14310, VITA/TCE Volunteer Sign Up to TaxVolunteer@irs.gov](http://www.irs.gov/form14310). Make sure to include all your contact information along with the city and state where you want to volunteer. A local IRS representative will direct you to the nearest organizations offering free tax help. Become a volunteer and see what a difference it can make in your life and the lives of others. **IRS**

The Outreach Corner—Simply Click, Copy, Paste

With nearly 53,000 subscribers, the Outreach Corner on IRS.gov offers an array of tax information that you can share with your employees. Each month, timely information is added for individuals and families on topics such as Earned Income Tax Credit, tax filing responsibilities, the types of contributions to make to retirement plans, the value of keeping good records, where to find FREE tax assistance and much more. In the fast-paced world of communications, there is often little time or limited resources to help the average person understand tax law. So, the IRS created the [Outreach Corner](http://www.irs.gov/outreach-corner) on IRS.gov to make it a little easier for organizations to reach the people they serve.

The Outreach Corner includes timely material you can click, copy and paste into websites, newsletters and other communication platforms, including ready-to-use articles written for the individual taxpayer audience, IRS audio and video files, and widgets.

The information is customized so the user can take immediate ownership of the material. This could save a step for employers looking for a particular tax matter to share with their employees quickly and easily. The Outreach Corner puts this information all in one place.

One of the most valuable things about the Outreach Corner is that it translates the sometimes-complex tax law into comprehensible terms the average person can understand.

The Outreach Corner is updated at least once a month with timely content. Anyone with products that reach taxpayers is encouraged to subscribe and take advantage of the available material. Please share this [subscription link](#) and promote the Outreach Corner as a valuable resource to help you reach your employees.

For questions, comments, or to learn more on the Outreach Corner, send an email to Partner@irs.gov. **IRS**


IRS Joins Forces with SSA and NCSSSA for 218 Webinar

The IRS office of Federal, State, and Local Governments (FSLG), co-hosted by Social Security Administration (SSA) and the National Conference of State Social Security Administrators (NCSSSA), offers a webinar available on the IRS Video Portal about [Social Security Section 218 Agreements and Government Entity Restructuring](#).

Section 218 agreements are voluntary arrangements between governmental entities and the Social Security Administration to provide social security and Medicare coverage for groups of employees, either in addition to, or in place of, coverage by a public retirement system. In order to properly determine the coverage of social security and Medicare for governmental employees, it is essential that governmental employers have an understanding of their state's Section 218 agreement.

While watching this webinar, you can learn about:


- What happens to the Social Security coverage of employees when two or more governmental entities combine?
- What is a predecessor/successor situation?
- What types of predecessor/successor situations are there?
- How are predecessor/successor situations identified?
- How are predecessor/successor situations handled?

The [IRS Video Portal](#) offers a wide variety of tax products through video and audio presentations. For video and audio presentations specific to governmental entities, please visit the portal by clicking [here](#). 

Order IRS's Free Tax Calendar for Small Business Owners

The free 2013 Tax Calendar for Small Businesses and Self-Employed is filled with useful information on general business taxes, IRS and SSA customer assistance, electronic filing and paying options. The calendar includes retirement plans, business publications and forms, common tax filing dates, and federal legal holidays.

You can now pre-order the 2013 calendar in both English and Spanish. Visit the [Small Business Products Online Ordering](#) page. Calendars will be shipped in December 2012.

You can also download an online version of the calendar, allowing you to add due dates and federal holidays to your own electronic calendar. Find it all on the [Tax Calendar page](#) at www.irs.gov. 

e-News

e-News for Small Businesses is a free electronic mail service designed to provide tax information for small business owners and self-employed individuals. It is distributed every other Wednesday.

Sign-up and you will receive information about:

- Important upcoming tax dates for SB/SE customers
- What's new for small businesses on the IRS Web site
- Reminders and tips to assist small businesses/self-employed with tax compliance

- IRS News Releases and special IRS announcements that pertain to SB/SE customers

- Tax-related information from other federal agencies

View a sample PDF of *e-News for Small Businesses* at www.irs.gov/pub/irs-utl/ensb_sample.pdf. To start your free subscription, go to IRS.gov, type "e-News for Small Businesses" in the upper right-hand search box, click "search", and then click on the search result, "Subscribe to e-News for Small Businesses".

Subscribe to *e-News for Small Businesses*

