

When, why and how
to correct 2022
Form W-2 errors



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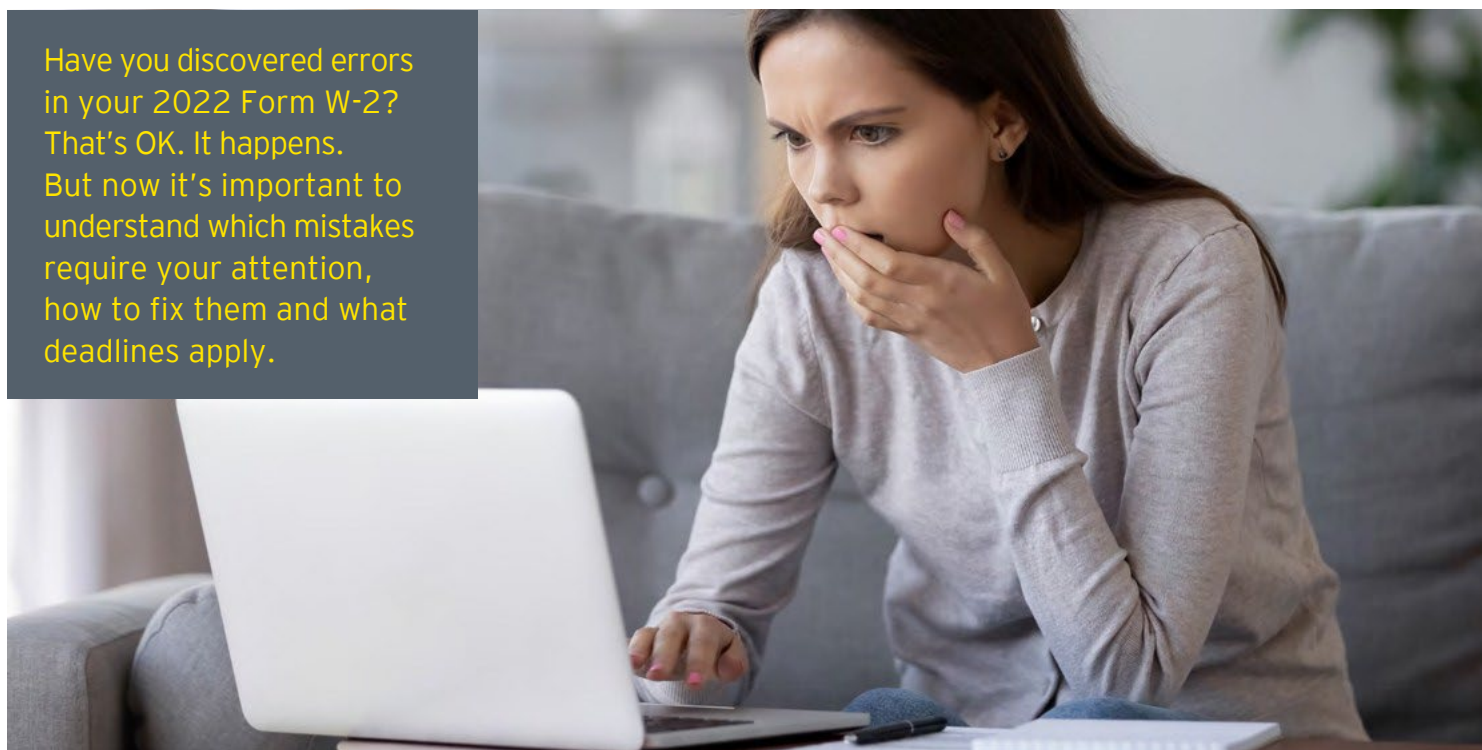


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When, why and how to correct 2022 Form W-2 errors

Have you discovered errors in your 2022 Form W-2? That's OK. It happens. But now it's important to understand which mistakes require your attention, how to fix them and what deadlines apply.



In this special report, we offer you Form W-2c essentials, including:

- ▶ How to fix these 10 common 2022 errors:
 - ▶ Excess contributions to a Health Savings Account
 - ▶ Excess contributions to a qualified retirement plan (e.g., 401(k))
 - ▶ Excess contributions to a health flexible spending account
 - ▶ Excess contributions to a dependent care assistance flexible spending account
 - ▶ Missing or incorrect employee name or Social Security Number
 - ▶ Error in employee and/or employer name or address
 - ▶ Incorrect reduction in federal income tax withholding in connection with a gross-up after the close of the tax year
 - ▶ Incorrect Employer Identification Number or tax year
 - ▶ Error in Additional Medicare Tax or federal income tax withholding
 - ▶ Excess Social Security tax withheld
- ▶ Form W-2c mechanics
- ▶ Timing for correcting errors
- ▶ When small-dollar de minimis errors don't have to be corrected
- ▶ Penalties for filing late or incorrect Forms W-2
- ▶ Employer liability for tax preparation and other costs incurred by employees because of a Form W-2c
- ▶ Considerations when issuing a replacement Form W-2
- ▶ Other payroll tax returns affected by a Form W-2c

For the Forms W-2 filing due dates, see our *2022 Payroll Year-ed Checklist* [here](#).

When, why and how to correct 2022 Form W-2 errors

Continued

Top 10 Form W-2 errors for tax year 2022	
1	Excess contributions to a Health Savings Account
2	Excess contributions to a qualified retirement account (e.g., 401(k))
3	Excess contributions to a flexible spending account
4	Excess contributions to a dependent care assistance flexible spending account
5	Missing or incorrect employee name or Social Security Number
6	Error in employer and/or employee name or address
7	Incorrect reduction in federal income tax withholding in connection with a gross-up after December 31
8	Incorrect Employer Identification Number or tax year
9	Error in Additional Medicare Tax or federal income tax withholding
10	Excess Social Security/Medicare tax withholding

Ten common 2022 Form W-2 errors and how to fix them

Despite best efforts to produce accurate Forms W-2, employees, and their tax advisors may raise questions that bring some errors to light.

We will discuss the top 10 Form W-2 errors for tax year 2022 and how to fix them.

1. Excess contributions to a Health Savings Account

Pretax contributions made to an employee's Health Savings Account (HSA) are excluded from wages subject to federal income tax (FIT), federal income tax withholding (FITW), Social Security/Medicare (FICA) and FUTA up to the maximum contribution under [IRC §223\(b\)](#). If contributions are erroneously made to an employee's HSA that exceed the maximum annual contribution allowed, the employer may correct the error in one of two ways: ([IRS Notice 2008-59; Q&A 23.](#))

- ▶ The employer may request that the financial institution return the excess amount to the employer. If applicable, the employer refunds the excess contribution to the employee. The employer issues a Form W-2c showing a corresponding reduction in the amount reported in box 12, Code W.

If the excess contribution was included in Form W-2, boxes 1, 3 and 5, the Form W-2c must also show a decrease in boxes 1, 3 and 5 for the amount of HSA contribution that was refunded to the employee. A FICA refund is then required on the decrease in taxable wages reported in boxes 3 and 5 of the Form W-2c.

- ▶ The employer may choose not to recover the excess contributions. In that case, the excess contributions must be included in taxable wages on Form W-2, boxes 1, 3 (up to the Social Security wage base) and 5. If the excess amounts were not properly included on Form W-2, a Form W-2c will be necessary. Note that in this case, no adjustment is made to Form W-2, box 12, Code W.
 - ▶ If an increase is made to Form W-2c, boxes 1, 3 (up to the Social Security wage base) and 5, the employer is liable for any Social Security and Medicare tax it failed to withhold and to pay on this amount to the IRS. The employer is also liable for any federal income tax and Additional Medicare Tax it failed to withhold. The liability for federal income and Additional Medicare Tax (but not the penalties) can be abated by obtaining [Form 4669](#) from the employee.

For the annual limits that applied to HSAs in 2022, see our report [here](#).

2. Excess contributions to a qualified retirement plan such as a 401(k)

If excess contributions are made to a qualified retirement plan such as a 401(k) or 403(b), the Form W-2 is not adjusted in any way. Instead, the employee is responsible for communicating information on excess deferrals so that a corrective distribution can be made from the trust plan administrator by the deadline of the first April 15 following the close of the individual's tax year. ([Reg. §1.402\(g\)-1\(e\)\(2\)\(i\).](#))

Corrective distributions from a tax-qualified retirement plan are reported on Form 1099-R and not Form W-2. ([Form 1099-R reporting instructions.](#))

3. Excess pretax contributions to a health flexible spending account

For 2022, an employee's annual pretax contributions to a health flexible spending account (FSA) are limited to \$2,850. ([Rev. Proc. 2021-45.](#)) If an employee's annual pretax contribution exceeded \$2,850 in 2022, the excess should be refunded to the employee and the amount reflected as taxable wages in Form W-2c, boxes 1, 3 and 5.

The employer is liable for any FICA tax it failed to withhold and for paying the employer share. The employer is also liable for any federal income tax and Additional Medicare Tax it failed to withhold. The liability for the federal income and Additional Medicare Tax (but not the penalties) can be abated by obtaining [Form 4669](#) from the employee.

For the rates and limits that applied in 2022, see our report [here](#).

4. Excess contributions to a dependent care assistance flexible spending account

Under [IRC §129](#), employees may contribute up to \$5,000 per year on a pretax basis to their employer's qualified dependent care assistance flexible spending account (FSA) and the pretax contribution, up to \$5,000, is excluded from wages subject to FIT, FITW, FICA and FUTA. Any excess over \$5,000 must be included in wages subject to FIT, FITW, FICA and FUTA.

If an employee's annual pretax contribution exceeded \$5,000 in 2022, the excess should be refunded to the employee and the amount reflected as taxable wages in Form W-2c, boxes 1, 3 and 5. An entry is also necessary in Form W-2c, box 10 to reflect a decrease for the amount refunded to the employee.

The employer is liable for any FICA tax it failed to withhold and for paying on this amount to the IRS. The employer is also liable for any federal income tax and Additional Medicare Tax it failed to withhold. The liability for the federal income and Additional Medicare Tax (but not the penalties) can be abated by obtaining [Form 4669](#) from the employee.

5. Missing or incorrect name or Social Security Number

The IRS requires that employers correct errors made in the employee's name or Social Security Number (SSN). How these errors are corrected depends on the facts and circumstances as shown in the chart below. ([General Instructions for Forms W-2 and W-3.](#))

Keep in mind that an error includes leaving the employee's name or SSN blank on the Form W-2 or showing the SSN as "000 00 0000" or "applied for" after a valid SSN is obtained from the employee.

Also remember that if employees have changed their name (e.g., marriage or divorce) they are required to complete a new [Form W-4](#).

Nature of name or Social Security Number error	Correction to Form W-2c	Correction to Form W-3c
Employee name or SSN was incorrectly reported on original Form W-2.	Complete boxes d-i for up to the statute of limitations. Tell employee to correct the Form W-2 attached to Form 1040.	Complete boxes d-j for at least up to the statute of limitations.
Employee obtains new or reissued Social Security card (e.g., change in US resident status or name change).	Complete boxes d-i only for most current year.	Complete boxes d-j only for most current year.
Name and SSN were blank on original Form W-2.	Call the Social Security Administration (SSA) at +1 800 772 6270 for instructions.	Call SSA at +1 800 772 6270 for instructions.

When, why and how to correct 2022 Form W-2 errors

Continued

6. Incorrect employee and/or employer name or address

▶ Error in employee name or address

If the only error on the Form W-2 is the employee's address, the employer has three options for correcting the error. Note that, regardless of the choice for correcting this error, a Form W-3c should not be filed with the SSA (unless you are correcting other errors on the Form W-2).

- ▶ Give the employee a corrected Form W-2 with "reissued statement" printed on it
- ▶ Mail the original Form W-2 to the employee's correct address
- ▶ Give the employee a Form W-2c showing the correct address and all other correct information

See No. 5 for how to correct an incorrect employee name on the Form W-2.

▶ Error in employer name or address

The Form W-2 should reflect the employer's name and address as shown on Forms 941, 941-SS, 943, 944, CT-1 or Schedule H (Form 1040). There is no mechanism for showing the previously reported and correct employer name or address on the [Form W-3c](#). The IRS states it will not use the Form W-3c to correct the employer's address of record. Instead, a change in the employer's address is made by filing Form 8822-B, Change of Address or Responsible Party-Business, with the IRS. ([General Instructions for Forms W-2 and W-3.](#))

Whether a penalty will apply for incorrectly reporting the employer's name is uncertain. The IRS states in the Form W-2 instructions that an inconsequential error or omission is not considered a failure to include correct information for purposes of imposing the penalties under IRC §6721 and §6722.

An inconsequential error or omission is defined by the IRS as one that does not prevent or hinder the SSA or IRS from processing the Form W-2, from correlating the information required to be shown on the form with the information shown on the payee's tax return or from otherwise putting the form to its intended use. Errors and omissions that are never inconsequential are those relating to:

- ▶ A Tax Identification Number
- ▶ A payee's surname
- ▶ Any money amounts (but see page 8 concerning de minimis errors) ([General Instructions for Forms W-2 and W-3.](#))

Keep in mind that if the error in completing this field is such that the employee doesn't recognize the employer's name, this could result in employee confusion and concern sufficient to necessitate a correction.

7. Incorrect reduction in federal income tax withholding in connection with a gross-up after the close of the tax year

Some employers take the position that federal income tax withholding reported through a gross-up is not "withheld" from employees' pay. Accordingly, they conclude that the error is administrative and corrections after the close of the year are allowed. This would seem to have been supported by IRS Reg. [§31.6414-1\(1\)](#) that states "an employer that has overpaid federal income tax withholding may file a claim for refund of the overpayment only if the amount was not actually withheld from the employee's wages."

However, a 2014 IRS Chief Counsel Advice ([CCA 201414019](#)) states clearly that a prior-year gross-up of income tax represents tax actually withheld even though the employer paid the tax on behalf of the employee through the gross-up. The CCA further states that the employer may not claim a refund of any excess federal income tax withholding remitted in a prior calendar year because of the gross-up. Instead, the CCA advised that any federal income tax refund must be claimed by employees on their federal individual income tax returns. This same guidance is now reflected in the [Form 941-X instructions](#).

Considering the 2014 CCA and the Form 941-X instructions, the practice of adjusting prior-year federal income tax withholding in connection with a gross-up is a risky practice that could result in an IRS assessment.

See also No. 9.

8. Incorrect Employer Identification Number or tax year

An error in the Employer Identification Number (EIN) or tax year on the Form W-2 can create numerous time-consuming issues for employers, including a mismatch in the wages and taxes reported on Forms W-2 and those reported on Forms 941. For this reason, a penalty is imposed for EIN and tax year reporting errors.

Correcting the tax year or EIN reported on the Form W-2 is a two-step process. (*General Instructions for Forms W-2 and W-3.*)

Step 1: Correct the originally issued Forms W-2 by preparing Forms W-2c and W-3c as follows:

- ▶ Show the incorrect tax year in box c and and/or the incorrect EIN in box b
- ▶ In the previously reported column, show the money amounts originally reported
- ▶ In the corrected amounts column, show zeroes
- ▶ Give employees a copy of Forms W-2c and file Forms W-2c and W-3c with the SSA

Step 2: Correct the originally issued Forms W-2 by preparing Forms W-2c and Form W-3c as follows:

- ▶ Show the correct tax year in box c and/or the correct EIN in box b
- ▶ In the previously reported column, show zero in the money amounts
- ▶ In the corrected amounts column, show the money amounts originally reported
- ▶ Give employees a copy of Forms W-2c and file Forms W-2c and W-3c with the SSA

Form W-2c, Corrected Wage and Tax Statement

DO NOT CUT, FOLD, OR STAPLE THIS FORM

44444		For Official Use Only ▶ OMB No. 1545-0008	
a. Employer's name, address, and ZIP code		c. Tax year/Form corrected / W-2	
b. Employer's Federal EIN		d. Employee's correct SSN	
<p>Note. Only complete money fields that are being corrected (exception: for corrections involving MOGE, see the General Instructions for Forms W-2 and W-3, under Specific Instructions for Form W-2c, boxes 5 and 6).</p>		e. Corrected SSN and/or name (Check this box and complete boxes f and/or g if incorrect on form previously filed.) <input type="checkbox"/> Complete boxes f and/or g only if incorrect on form previously filed ▶	
		f. Employee's previously reported SSN	
g. Employee's previously reported name h. Employee's first name and initial Last name Suffix		i. Employee's address and ZIP code	
Previously reported		Correct information	
1 Wages, tips, other compensation		1 Wages, tips, other compensation	
3 Social security wages		3 Social security wages	
5 Medicare wages and tips		5 Medicare wages and tips	
7 Social security tips		7 Social security tips	
9		9	
11 Nonqualified plans		11 Nonqualified plans	
13 Statutory employee Retirement plan Third-party sick pay		13 Statutory employee Retirement plan Third-party sick pay	
14 Other (see instructions)		14 Other (see instructions)	
		12a See instructions for box 12	
		12b	
		12c	
		12d	
State Correction Information			
Previously reported		Correct information	
15 State		15 State	
Employer's state ID number		Employer's state ID number	
16 State wages, tips, etc.		16 State wages, tips, etc.	
17 State income tax		17 State income tax	
Locality Correction Information			
Previously reported		Correct information	
18 Local wages, tips, etc.		18 Local wages, tips, etc.	
19 Local income tax		19 Local income tax	
20 Locality name		20 Locality name	

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Copy A—For Social Security Administration

Form **W-2c** (Rev. 8-2014) **Corrected Wage and Tax Statement** Department of the Treasury
Cat. No. 61437D
Internal Revenue Service

When, why and how to correct 2022 Form W-2 errors

Continued

6 Key facts employers need to know about the Additional Medicare Tax

1. You can't withhold more or less than 0.9% on wages in excess of \$200,000.
2. You can't refund excess Additional Medicare Tax withholding for 2022.
3. It's past December 31; therefore, employees can't pay you Additional Medicare Tax they owe for 2022. Instead, they pay the amount owed with their federal income tax return.
4. Additional Medicare Tax you pay on behalf of employees is taxable.
5. When employees repay prior-year wages, you can't refund the Additional Medicare Tax you withheld.
6. Special instructions apply to reporting Additional Medicare Tax corrections on Form 941-X.

9. Error in withholding federal income tax or Additional Medicare Tax

The IRS does not allow for corrections in the reporting of federal income tax or Additional Medicare Tax withheld on Form W-2 unless the correction is "administrative."

As explained in the [Form 941-X](#) reporting instructions, "You may correct federal income tax and Additional Medicare Tax withholding errors for prior years if the amounts shown on Form 941 do not agree with the amounts you actually withheld, that is, an administrative error."

In the April 2017 update to Form 941-X, the IRS clarified that adjustments to federal income or Additional Medicare Tax related to a gross-up calculation do not constitute an administrative error and also, cannot be corrected after the close of the tax year.

It is the intention of the IRS that an employee not be allowed to have federal income tax or Additional Medicare Tax withheld from current wages for the purpose of correcting under- or overwithholding in a previous year. ([Form 941-X instructions](#).)

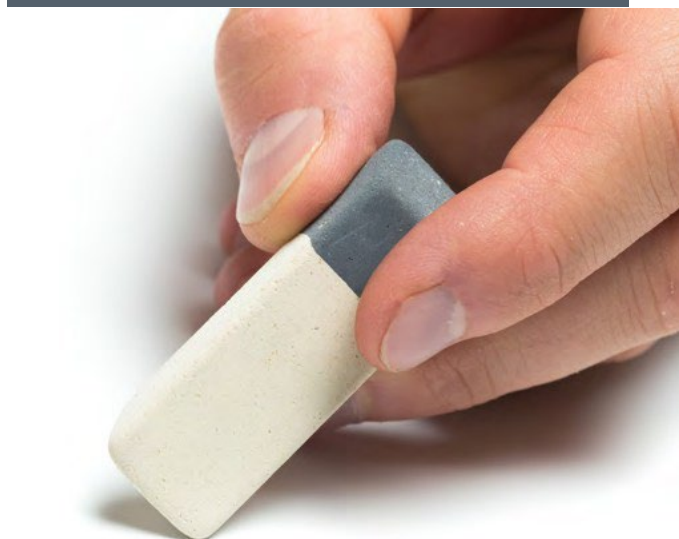
See also No. 7.

Example 1:

Employee Mark discovers in January 2023 that his federal income tax withholding in 2022 was \$500 less than his 2022 federal income tax liability. To avoid any penalty arising from the income tax withholding shortage, Mark requests that the employer withhold an additional \$500 from wages paid in 2023 and show the additional \$500 on a 2022 Form W-2c as federal income tax withholding for 2022. In this example, the federal income tax withholding correction is not an administrative error, and a Form W-2c correcting box 2 (federal income tax withholding) is not allowed. The \$500 additional federal income tax withheld in 2023 must be applied to the 2023 Form W-2.

Example 2:

ABC Company discovers in 2023 that it withheld federal income tax of \$50 from a bonus paid to employee Marcy but it failed to include the \$50 in box 2 of the 2022 Form W-2. ABC may issue a 2022 Form W-2c reflecting the additional box 2 amount of \$50 because this is an administrative error.



10. Excess Social Security/ Medicare (FICA) withholding

Employers frequently ask whether they are required to correct a Form W-2 that shows excess FICA withholding, or if the employee can request a refund of the excess FICA directly from the IRS when filing the personal tax return.

As a general rule, the IRS expects employers to refund any excess FICA withheld; therefore, a Form W-2c should be issued showing only the correct FICA withholding. You should refund FICA tax overpayments to the employee, and upon certification that the employee has not and will not claim a refund of the excess on the personal income tax return, you may file a Form 941-X with the IRS requesting an adjustment or refund for the employee and employer overpayment of Social Security and Medicare. See [Form 941-X instructions](#) for more details.

How long does an employer have to correct an error on Form W-2?

Employers are required to correct errors on Forms W-2 as quickly as possible. The penalty for filing an incorrect W-2 with the SSA increases over time. See below for more information on penalties.

Do small-dollar de minimis errors need to be corrected?

Starting with tax year 2016 (forms filed in 2017), there is a de minimis error safe harbor that waives the information reporting penalty for small-dollar errors of no more than \$100, \$25 for withholding taxes. Note, however, that there is one significant limitation – employees have the right to request a Form W-2c for these small errors, and employers must notify them of this right.

As explained in IRS guidance, employers cannot simply disregard small-dollar errors. ([Notice 2017-09](#).)

Circumstances under which the safe harbor does not apply

The IRS clarifies that the de minimis error safe harbor applies only to inadvertent errors on information returns and statements and not when the business has intentionally misreported a dollar amount, whether or not the dollar amount of the error is de minimis. A pattern of noncompliance indicates intention to misreport for these purposes.

In addition, the de minimis error safe harbor applies only to errors on information returns filed or statements provided. It does not apply if the business failed entirely to file a return or furnish a statement, even if the statement or information return would report dollar amounts of \$100 or less or tax withheld of \$25 or less.



When, why and how to correct 2022 Form W-2 errors

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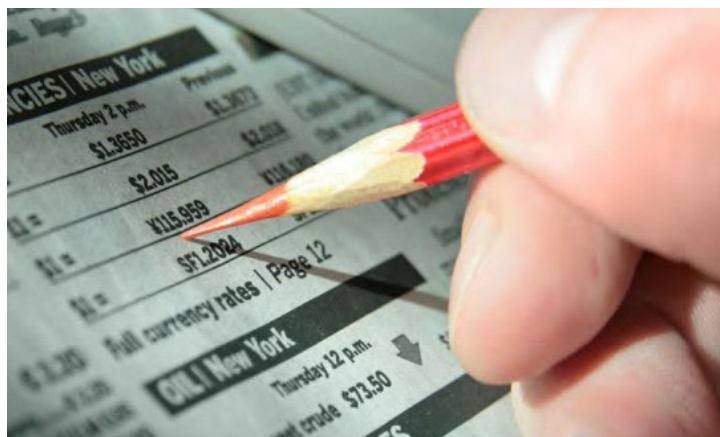
IRS guidance governing taxpayer election for correction of de minimis errors

In [Notice 2017-09](#), the IRS clarifies the rules and guidelines governing the use of the safe harbor relief penalties for de minimis information statements and returns as follows.

- ▶ **30 days to make de minimis corrections requested by taxpayers.** Unless other filing deadlines apply, if the payee (e.g., employee) elects to have de minimis errors corrected, the business has 30 days from the day such election is made to furnish a corrected statement and file a corrected return. Corrections made within the 30-day deadline are not subject to penalties under IRC §6721 and §6722.
- ▶ **Manner for taxpayer election to receive corrections.** Businesses may prescribe any reasonable manner for taxpayers to elect to have de minimis errors corrected, including phone, written statements or online; however, online cannot be the exclusive method available. If the business has not prescribed a manner for making the election, a written statement should be provided by the taxpayer to the businesses using the business name and address furnished on the information statement. Additionally, the business may not impose prerequisites, conditions or time limits on the payee's ability to request a corrected statement, other than prescribing a reasonable manner for making the election.
- ▶ **Revocation of election to receive corrections.** Payees can revoke their election to receive corrections of de minimis errors by providing written notice to the business.
- ▶ **Timing to make elections to receive corrections.** Payees may make an election to receive correction of de minimis errors pursuant to statements required to be filed in the calendar year of the election and succeeding calendar years. Payees are also allowed to make the election in a calendar year preceding the calendar year in which the payee makes the election.
- ▶ **Corrections allowed even if not elected.** Businesses may file corrected information returns and provide corrected statements even if employees do not elect to receive them.

- ▶ **Information required within the payee election.** To provide notice of the election to receive corrections of de minimis errors, the payee must provide the business with the following information:
 - ▶ A clear statement that the payee is making the election.
 - ▶ The payee's name, address and Taxpayer Identification Number (TIN).
 - ▶ Identification of the type of payee statement(s) and account number(s), if applicable, to which the election applies (e.g., Form W-2, Form 1099-DIV) if the payee wants the election to apply only to specific statements.
 - ▶ If the payee wants the election to apply only to the year for which the payee makes the election, a statement that the election applies only to payee statements required to be furnished in that calendar year.

If the payee does not identify the type of payee statement and account number or the calendar year to which the election relates, the payer must treat the election as applying to all types of payee statements the payer is required to furnish to the payee and as applying to payee statements required to be furnished in the calendar year in which the payee makes the election and in any succeeding calendar years.



Recordkeeping requirements

Businesses must retain in their records copies of any taxpayer election, or revocation of an election, for as long as this information is relevant in the administration of any internal revenue law.

Ernst & Young LLP insights

The ability of taxpayers to insist on the correction of de minimis errors significantly limits the benefit of this safe harbor; however, it is a restriction intended within the language of the law and not one created by IRS guidance.

Before choosing to take advantage of this safe harbor, businesses will need to consider the administrative costs associated with managing and accommodating taxpayer “opt-out” elections.

Not correcting Forms W-2, whether or not allowed under the safe harbor, can create matching differences with employment tax returns (e.g., Form 941), resulting in notices from the SSA and IRS under the Combined Annual Wage Reporting (CAWR) program. In fact, the IRS states in Notice 2017-09 that in consideration of the CAWR program, employers are encouraged to correct all Form W-2 reporting errors, even those that are de minimis.

[Notice 2017-09](#) does not explicitly state that businesses are required to notify payees each time they intend to apply the de minimis error safe harbor. Instead, the IRS states that future regulations will include the requirement that businesses notify taxpayers of the de minimis error safe harbor and the election for the safe harbor not to apply. In advance of the upcoming regulations, businesses should take a conservative approach and notify taxpayers in each instance they intend to apply the safe harbor and provide some time for taxpayers to make their elections.

2022 Form W-2c facts

- ✓ All consequential Form W-2 errors must be corrected, including informational boxes 10, 11, 12 and 13. An exception applies to small-dollar errors but only if employees do not exercise their right to receive a Form W-2c.
- ✓ Penalties for an incorrect Form W-2 (employee and SSA copy) filed in 2023 can be as high as \$290 with a maximum annual penalty of \$3,532,500 (\$1,177,500 for small businesses). Higher penalties apply for intentional disregard. ([Rev. Proc. 2021-45](#).)
- ✓ Under the Internal Revenue Code, employers are not required to reimburse employees for tax preparation or other related costs they incur as a result of receiving a Form W-2c. However, a minimum \$5,000 civil penalty could apply if employees tell you the Form W-2 is wrong and you don't fix it.
- ✓ The IRS will generally enforce a statute of limitations for filing a Form W-2c of three years. Note that the SSA requests that employers file Forms W-2 for all tax years without regard to the statute of limitations.
- ✓ To avoid penalties, a Form W-2c is generally required within 30 days after you become aware of an error.
- ✓ Be mindful of employee privacy when issuing replacement Forms W-2 or W-2c.
- ✓ Changes in the money amounts on a Form W-2 may also require corrections to other payroll tax returns (e.g., Form 941, Form 940, state unemployment insurance returns).

When, why and how to correct 2022 Form W-2 errors

Continued

What is the penalty for filing a late or incorrect 2022 Form W-2?

- ▶ \$50 per Form W-2 if you correctly file within 30 days of the due date, a maximum penalty of \$556,500 (\$194,500 for small businesses)
- ▶ \$110 per Form W-2 if you correctly file more than 30 days after the due date but by August 1, 2023; maximum penalty of \$1,766,000 per year (\$588,500 for small businesses)
- ▶ \$290 per Form W-2 if you file after August 1, 2023, or you do not file required Forms W-2 at all; maximum penalty of \$3,532,500 per year (\$1,177,500 for small businesses)

The penalty for intentional disregard is the flat amount of \$580 per form with no maximum penalty. (*Rev. Proc. 2021-45.*)

Note that the correction will be considered to have been filed in a timely manner if made within 30 days of discovering the failure or removing the impediment to correcting the failure. (IRC §6721(b); IRC 6721(d); IRC §6722.)



Is the employer required to compensate employees for tax preparation and other costs incurred due to the receipt of a Form W-2c?

The IRS does not require employers to reimburse employees for direct or indirect expenses they incurred due to incorrect Form W-2 reporting. This is not to say that employees don't have other avenues for seeking financial restitution. In fact, case law shows that some employees have successfully sued their employers for these kinds of damages. (*Clemens v. Revlon, Inc.*, 838 F.2d 1389 (5 Cir. 1988).)

In addition, the Internal Revenue Code makes a provision for civil damages for “any person who willfully files a fraudulent information return with respect to payments purported to have been made to another person.” The maximum award of damages under this provision is the greater of \$5,000 or the amount of actual damages (including the costs of the action) and, in the court's discretion, reasonable attorneys' fees. (IRC §7434.)

The most compelling reason to consider reimbursing employees' direct costs for Form W-2 reporting errors is employee morale. To keep employees content and productive, some employers reimburse them for direct costs they incur because of receiving a Form W-2c (e.g., the cost of filing amended federal, state and local tax returns). Generally, such reimbursement is made only when employees are given a Form W-2c after they filed their original federal, state and local income tax returns.

Tip to clip

Employee reimbursement for expenses, such as tax preparation fees, is considered wages subject to federal employment tax and withholding (state and local taxes may also apply) in the tax year when the reimbursement is made.

What are the procedures for issuing a replacement Form W-2?

Employers can reissue a Form W-2 using either the IRS official form or an acceptable substitute that meets the requirements published in [IRS Publication 1141](#), *General Rules and Specifications for Substitute Forms W-2 and W-3*.

If you are furnishing the employee with a paper replacement of Form W-2 (or Form W-2c), it must be labeled “REISSUED STATEMENT.” You do not have to add “REISSUED STATEMENT” on Forms W-2 that are provided to employees electronically.

Do not file Copy A of a reissued Form W-2 with the SSA.

For more information on electronic storage and access to Form W-2 data, see IRS REG 107186-00, 66 F.R. 10247, and T.D. 8942, 66 F.R. 10191. ([General Instructions for Forms W-2 and W-3](#).)

- ▶ **Deadline for issuing replacement forms.** The deadline for providing federal Forms W-2 to employees (January 31, 2023, for tax year 2022) applies only to the original issuance. The IRS doesn't specify a period in which lost Forms W-2 must be replaced. While employers should be sensitive to employees' federal, state and local tax filing deadlines, there is generally no need to issue replacement forms on demand.

Tip to clip

To eliminate daily interruptions caused by responding to requests for duplicate W-2s and to make the process more efficient, some payroll departments designate a specific time each week for issuing replacement forms. Some employers schedule temporary help to assist in the preparation and distribution of replacement forms. Electronic delivery of Forms W-2, where permitted, can significantly reduce the time and effort involved in replacing lost forms.

- ▶ **Keep privacy rights in mind.** In the effort to respond to employee requests for replacement Forms W-2, don't throw caution to the wind. The Form W-2 contains confidential information about the employee's earnings. It's the employer's responsibility to take reasonable steps to confirm that copies of Forms W-2 don't end up in the wrong hands. An employer can show that a reasonable effort was made to maintain the confidentiality of Form W-2 information by using such delivery methods as a secure email system, confidential intercompany mail, the U.S. Postal Service or other reliable delivery service to an address provided by the employee through some form of written or PIN-verified request. It is not a prudent practice to accept phone requests for duplicate Forms W-2, particularly when the request involves sending the form to a location other than the employee's most recent confirmed address of record.

Tip to clip

To streamline the processing of replacement Forms W-2 (or Forms W-2c) and to protect confidentiality, some employers require that employees complete and sign a request form. The request form includes mailing instructions and a signature area for the employee. Written requests can be processed in date-received order and can also function as essential documentation of the employer's reasonable effort to protect the confidentiality of the Form W-2 information. A sample request form appears on page 14.

When, why and how to correct 2022 Form W-2 errors

Continued

Do I need to file any other returns when correcting the Form W-2?

The wage and tax information reported on Form W-2 is reconciled to other federal, state and local returns, meaning that a difference in the amount of wages or taxes reported on Forms W-2 and Forms 941 (or 944, 943) for the tax year could result in IRS notices – even penalty assessments. Similarly, an unexplained difference between federal taxable wages reported to the IRS and to state and local taxing authorities can create audit adjustments that could have monetary consequences (e.g., penalty and interest). For these reasons, it is imperative that employers take the following steps when preparing Forms W-2c:

- ▶ Store in a “batch file” of all Forms W-2c furnished to employees
- ▶ Establish a regular schedule (e.g., monthly) for filing the Form W-2c “batch”
- ▶ When preparing to file the W-2c batch, review the following matrix to determine other payroll tax returns that may be affected

Form W-2c related-return checklist: other returns that may be required

Form W-2c box reference	Form 941-X	FUTA covered? Form 940 – amended (attach Form 843)	State/local income taxable? State and local Form W-2c	SUI covered? State unemployment return – amended
Box 1: Federal taxable wages	✓	✓	✓	✓
Box 2: Federal income tax withheld	✓			
Box 3: Social Security wages	✓	✓		✓
Box 4: Social Security tax withheld	✓			
Box 5: Medicare taxable wages	✓	✓		✓
Box 6: Medicare tax withheld	✓			
Box 7: Social Security tips	✓	✓		✓



Sample employee request for a replacement Form W-2

Employee request for replacement Form W-2

I am requesting a replacement Form W-2 for tax year _____.

Personal data

Employee name: _____
(Print name)

Social Security Number ----- _____

Phone: () _____

Mailing address

Street: _____

City, State, ZIP: _____

Method of delivery

___ company email ___ first-class mail ___ pick up ___ intercompany mail

Employee signature _____ Date: _____
(Sign here)

.....

For office use only

Date request received: _____
(Month)(Day)(Year)

Date replacement provided: _____
(Month)(Day)(Year)

Replacement prepared by: _____
(Print name)

Copy 1 – Payroll, Copy 2 – Human Resources, Copy 3 – Employee's copy





Ernst & Young LLP Employment Tax Advisory contacts

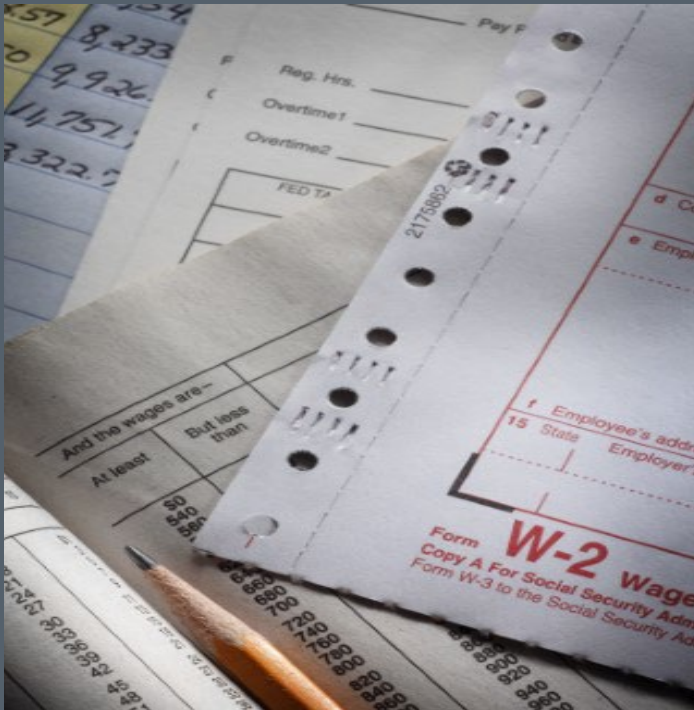
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