

July 1, 2019

Internal Revenue Service  
Attn: CC:PA:LPD:PR (Federal Form W-4)  
Room 5203  
P.O. Box 7604  
Ben Franklin Station  
Washington, D.C. 20044

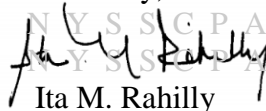
By e-mail: [WI.W4.Comments@IRS.gov](mailto:WI.W4.Comments@IRS.gov)

**Re: Draft of the 2020 IRS Form W-4, Employee's Withholding Allowance Certificate**

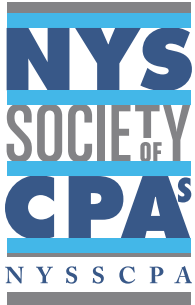
The New York State Society of Certified Public Accountants (NYSSCPA), representing more than 24,000 CPAs in public practice, business, government and education, welcomes the opportunity to comment on the Draft of the 2020 IRS Form W-4, Employee's Withholding Allowance Certificate.

The NYSSCPA's Taxation of Individuals Committee deliberated the Draft Form W-4 and prepared the attached comments. If you would like additional discussion with us, please contact George Rubino, Chair of the Taxation of Individuals Committee, at (646) 776-6194, Philip London, Chair of the Tax Division Oversight Committee, at (212) 594-8155, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

  
Ita M. Rahilly  
President

Attachment



**NEW YORK STATE SOCIETY OF  
CERTIFIED PUBLIC ACCOUNTANTS**

**COMMENTS ON  
DRAFT OF THE 2020 IRS FORM W-4, EMPLOYEE'S WITHHOLDING  
ALLOWANCE CERTIFICATE**

**July 1, 2019**

**Principal Drafters**

**Philip J. London  
George R. Rubino**

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# **New York State Society of Certified Public Accountants**

## **Comments on**

### **Draft of the 2020 IRS Form W-4, Employee's Withholding Allowance Certificate**

We welcome the opportunity to respond to the Internal Revenue Service's (IRS') invitation to comment on the Draft of the 2020 IRS Form W-4, Employee's Withholding Allowance Certificate.

#### **Background**

The Federal Form W-4 is a form that a new employee is required to complete for an employer so that the employer can withhold the appropriate Federal income and payroll taxes from employee wages. An existing employee can also use the Form W-4 to update the amounts withheld by an employer at any time during the year.

In prior years, an employee could claim a tax withholding allowance on Form W-4 for each exemption the employee was eligible to claim. Each withholding allowance claimed had resulted in a marginally lower amount of taxes withheld from the paycheck of that employee.

The Tax Cuts and Jobs Act of 2017 (formally known as "An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018, Pub. L. 115-97") has brought about new tax law and subsequent changes to Form W-4.

#### **Comments and Concerns**

The draft Form W-4 released on May 30, 2019 no longer provides for tax withholding allowances. We understand the reasoning for this, as the tax allowances claimed had been based upon the personal and dependent exemptions an employee was eligible to claim on a personal income tax return. These exemptions are no longer available under the new tax law.

We believe that the draft Form W-4 will present complications for both employees and employers. The draft form asks the employer to use the expected tax liability of the employee to determine the amounts of tax to withhold from that employee's paycheck. The draft form does not provide clear direction for employees with sophisticated tax situations (i.e. employees who claim itemized deductions), compared to employees with more basic tax situations (i.e. employees who claim the standard deduction). In order to accurately complete Steps 2-4 of the draft form a taxpayer would be required to have a more extensive tax background regarding the following:

- Step 2
  - Wage information requested regarding a second job the employee may have
  - Wage information requested regarding the job(s) of the spouse
- Step 3
  - Whether the combined income of an employee will be \$200,000 or less (\$400,000 or less if selecting the married filing joint filing status)
- Step 4
  - Information about income from other sources (including non-wage income) expected to be included on the employee's personal income tax return
  - Information about tax deductions the employee expects to claim on the tax return

By including the above items, the draft form could potentially allow employers to collect information about its employees that had originally been confidential. The question of whether the information asked for on this draft form is necessary for the employer to receive is debatable. One potential risk this can present is the opportunity for employer bias, providing an employer with the ability to adjust future bonuses or salary increases for an individual employee based on factors outside of the individual employee's job performance. Consider the following example:

Assume an employee is eligible for a \$5,000 bonus based upon performance at the employee's job and the employer learns about the employee's significant sources of other income via information provided on the draft Form W-4. This information may provide a bias from the employer to adjust the bonus based upon that knowledge. Would this be fair or equitable to the employee?

We realize that the form as currently drafted does provide employees with the option to omit this detailed information from the employers' records. Employees can instead choose to:

- A) Use the IRS withholding calculator to compute the taxes to be withheld
- B) Use the page 3 supplemental worksheets of Form W-4 (which are not submitted to the employer)
- C) Use IRS Publication 505, Tax Withholding and Estimated Tax, to help with these calculations

However, utilizing any of these three options as currently provided may not be very straightforward for someone who does not have an income tax or accounting background.

If it is determined that less tax withholding is required, the employee could enter this reduction amount on Step 4, line b of the draft form. If it is determined additional withholding is required, an employee could enter this amount on Step 4, line c of the draft form. Again, these choices assume the employee knows how to utilize the IRS withholding calculator, the Page 3 worksheets provided, or even properly interpret the provisions of IRS Publication 505. Our concern is that this may not necessarily be the case.

Another circumstance that may present future complications is if the income for an employee fluctuates throughout the year. If so, would that individual be required to submit an updated

Form W-4 each time? This could be an unnecessary burden to both the employee and the employer.

The lack of consistency with how these forms are completed can also present additional complications for employers' human resources departments. At a minimum, the form would now require a more significant amount of time for the employer to process. Employers may also need the employee to complete a separate state tax withholding form (i.e. NYS Form IT-2104), as the withholding information submitted for Federal tax purposes may not easily translate over for state tax purposes.

## **Recommendations**

Individuals already have the option to make estimated income tax payments quarterly without their employers having access to this additional income information. Therefore, we recommend that the IRS remove Step 4 lines 4a and 4b from the form. The employee can submit tax payments quarterly. Another option would be to complete an updated form W-4 if an individual anticipates a significant change in household income.

If the IRS determines lines 4a and 4b should be retained on the form W-4, certain terms should be clarified:

- Page 2 of the draft instructions references IRAs and Page 3 worksheet 2, line 4 references IRA contributions. We recommend adding the word “deductible” in front of both of these terms to help the user determine the proper IRA contribution amount to include on the worksheet (i.e. omitting Roth IRA contributions from the form).
- The page 3 worksheet, line 1 references state and local taxes. We believe this should be further clarified to include state and local income taxes, real estate taxes, and personal property taxes.

Additionally our review of the draft form W-4 and related instructions has led us to suggest that the following adjustments be made:

- We recommend adding a separate line item to the form W-4. This line item can give an employee the option to input the percentage of federal income tax they would like to have withheld from gross wages. If the employee were to choose this line item, a minimum percentage set forth by the IRS could be beneficial (i.e. 10% or 15% of gross wages).
- Updating the form W-4 instructions may also be helpful. For example, we noticed that the current draft instructions make use of the word “job” by itself multiple times. However, the word “job” by itself is very general in nature. An individual may incorrectly presume that this term includes self-employment income as well. Therefore, using the term “job as an employee” in place of the word “job” by itself may help to provide clarity.

The form as currently drafted is expected to result in many additional inquiries from employers and their affected employees. We believe that addressing the concerns above will help to reduce these questions.