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Re: 2019 Draft Form W-4 and Instructions

On behalf of the members of the National Association of Tax Professionals (NATP), we are submitting this feedback on the Form W-4, *Employee's Withholding Allowance Certificate*. NATP is comprised of over 23,000 tax professionals who serve more than 11 million taxpayers. As the largest organization dedicated to excellence in federal tax preparation, we are well placed to provide practical, common sense observations.

Our recommendations emphasize the need for a simple Form W-4 that reduces administrative burden, protects the privacy of employees, and avoids the shifting of additional burden to employers.

The form and instructions as currently presented raise a few concerns:

- At a staggering 11 pages of instructions, as compared to four pages in 2018, the burden on both employees and employers has unnecessarily increased.
- The new requirement that employees disclose other household income such as investment income and income from other family members raises privacy concerns by allowing inappropriate disclosures to employers.

- The increased complexity of the new form creates a substantial risk of under withholding.

### **Excessive burden**

The ultimate responsibility for paying the correct amount of tax lies with the taxpayer. Creating a form that calculates the correct amount of withholding for employees should not be so overly complicated that the employee needs professional help.

To accurately compute the proper amount of withholding, some employees will be required to have clear knowledge of current and future income, a clear understanding of how to calculate anticipated tax credits as well as an understanding of the nuances of each filing status. The proposed instructions refer these employees to several publications and forms for additional information. The forms referenced are used to compute tax credits that the employee is likely not familiar with, much less able to understand their credit eligibility. This conceivably could cause them to compute this amount incorrectly. Leaving that line blank as an option could lead to over withholding. Conversely, computing credits incorrectly would lead to under withholding and consequently the possibility of penalties.

For most other taxpayers who have a simple tax situation with one or two wage paying jobs, the process of calculating the proper amount of withholding should not be complicated. Simply asking the employee a few questions about their income and filing status should suffice in computing the proper amount of withholding.

The new form also unnecessarily shifts the burden of proper withholding to the employer by requiring them to calculate their employees' withholdings on an annual basis. Often payroll personnel are not well versed in the complexities of the tax code and the application of the law to specific situations. It is likely employees will depend on these individuals, when in truth they should seek the assistance of a tax professional. It also remains unclear what level of due diligence is required of the employer to ensure that the proper amount of tax is withheld and the information the employee is providing is accurate, and if the employer is held accountable for any under withholding penalties if they rely on the information provided by the employee.

### **Disclosure of private information**

The requirement that employees disclose other family income, including wage and business income of a spouse, is clearly an invasion of privacy. Additionally, there is no clear indication that this information is not a requirement; however, it seems obvious that should the employee wish to have accurate withholding, there is no option other than to disclose this private information. The employee will need assurances that this private information doesn't fall into the wrong hands.

### **Risk of under withholding**

There is no doubt that a considerable level of tax knowledge is required to accurately prepare the new Form W-4. Employees are not only expected to understand what tax credits they are eligible for, but how to correctly calculate the amount. Employees will be required to forecast income in such a manner as to take into consideration allowable expenses and other deductions.

For self-employed spouses, estimating income and deductions presents its own complexities by requiring the self-employed person to have a broad understanding of deductible expenses such as depreciation and other allowable expenses. As an aside, it has not been determined how or when the payment of estimated taxes will figure into the overall calculation of withholding for the employed spouse.

## **Conclusion**

We understand and appreciate that it has long been the goal of Congress, the Treasury and ultimately the IRS, to simplify the tax code and tax filing in an overriding effort to reduce taxpayer burden. However, the proposed revision to Form W-4 undeniably increases the burden on both employees and employers.

Thank you for considering the National Association of Tax Professionals's concerns regarding the draft Form W-4 and accompanying instructions. We look forward to partnering with the IRS to arrive at an amenable solution.

Sincerely,

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