



IRS temporary regulations eliminate the automatic 30-day filing extension for Forms W-2

Under temporary regulations and effective for the 2017 filing season, employers will be allowed only one non-automatic 30-day extension on the filing due date for the Forms W-2 series (except Form W-2G). ([TD 9730](#); [REG-132075-14](#))

The IRS intends in the future to remove the automatic 30-day extension of time to file other returns (e.g., Form 109), but anticipates these changes will not be effective any earlier than the 2018 filing season.

The IRS explains that eliminating the 30-day automatic extension is necessary in an effort to make Forms W-2 available earlier in the filing season for use in its identity theft and refund fraud detection services.

The temporary regulations also update and clarify that the returns available for requesting a filing extension under IRS Reg. §1.6081-8T apply to the Form 1097 series, Form 3921, Form 3922 and returns required under the Affordable Care Act except Form 1095-A (i.e., Forms 1094-C, Form 1095-B and Form 1095-C).

Current procedures for requesting a filing extension

Under the current procedures, if an employer is unable to meet the Form W-2 filing deadline, an automatic 30-day extension can be obtained by filing [Form 8809, Application for Extension of Time to File Information Returns](#), with the IRS. The term “automatic” means that the Form 8809 need not be approved by the IRS nor is an explanation for the extension request required.

One additional 30-day filing extension may be requested by submitting a second Form 8809; however, the IRS will approve this request only when there are extenuating circumstances preventing the filing.

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Treasury and the IRS request comments on the appropriate timing of the removal of the automatic extension of time to file information returns covered by IRS Reg. §1.6081-8T, such as Form 1042-S, including whether special transitional considerations should be given for any category or categories of forms or filers relative to other forms or filers.

Ernst & Young LLP insights

Increasingly, federal and state taxing authorities have looked to an earlier Form W-2 due date to reduce tax refund fraud linked to identity theft. This year alone, Connecticut, Alabama, Indiana, Utah and Virginia accelerated their Form W-2 filing due dates to January 31. (See *EY Payroll Newsflash*, Vol. 16, 201, 7-23-2015)

The Obama Administration proposed in his [fiscal year 2016 budget](#) that the filing due date for both paper and electronic Forms W-2 be expedited to January 31.

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