

W-4 “Exempt” Claims: What Employers Need to Know Before Accepting Revised Forms

Description

By [Russell J. Stein](#)

At the start of every year my social media algorithms are often inundated with ads for “tax strategists” and ways to decrease your taxes. New this year (at least to me) are posts providing “advice” on how to minimize income tax withholding from wages. Employers (and employees) should be forewarned that following that “advice” when not eligible could lead to civil and perhaps even criminal penalties for the employee, and possible under-withholding tax penalties for the employer.

IRS Form W-4 is an employee withholding certificate, signed under penalties of perjury, instructing an employer on how much to withhold from an employee’s paycheck. The “advice” being distributed on social media is an employee can eliminate Federal tax withholding by just submitting a W-4 to its employer and checking the box to claim that they are exempt from Federal withholding taxes (or, alternatively, claiming a large amount of dependents or deductions). However, employees and employers should keep in mind that the form is signed under penalties of perjury and an employee can only claim exemption from withholding tax under very narrow circumstances.

Pursuant to the instructions on Form W-4 and the underlying U.S. Treasury Regulations, an employee is only exempt from Federal withholding tax, and can only claim exemption, if the employee had no federal income tax liability in 2025 **and** the employee expects to have no Federal income tax liability in 2026. The instructions go on to indicate that a person would have no Federal income tax liability in 2025 if (1) their total tax for that year was zero or (2) they were not required to file a return because their income was below the filing threshold for their correct filing status. If an employee does not meet those conditions (e.g., they paid income taxes in 2025), they are not eligible to claim exemption from withholding.

While exemptions and deductions could decrease the amount of taxes an employee owes to the Federal government, it is not be common for a full-time employee to meet the requirements to claim complete exemption from Federal income taxes. *Receiving a refund in 2025 because you overpaid taxes is not the same as having zero tax liability for the year and is not a basis to claim complete exemption from withholding.*

An employee falsely claiming exemption on a Form W-4 can be subject to a civil penalty of \$500 and, if convicted, be subject to a criminal penalty of not more than \$1,000 and / or imprisonment of up to 1 year under the U.S. Treasury Regulations.

If an employee presents a new or revised W-4 to its employer, the employer can rely on the W-4 unless the W-4 is altered or the information presented clearly contradicts known information.

In the situation where an employer has no reason to believe the W-4 exemption claim is invalid, the employee claiming exemption must present a new W-4 to its employer each year no later than February 15th in order to validly claim exemption. If the deadline is missed the employer is required to withhold tax as if the employee is single with no adjustments.

It is important to note that a valid W-4 exempt certificate only applies to Federal income tax exemption, it does not apply to Social Security or Medicare tax withholding or state income tax withholding.

The old (revised) adage holds true here, just because someone read on social media that they can stop withholding taxes by submitting a revised W-4 does not necessarily mean it is true. If an employee presents

you with a revised W-4 claiming complete exemption from Federal income taxes, you may want to consider informing the employee of the requirements for exemption, confirming with the employee they meet those rules, and reminding the employee that the form is signed under penalties of perjury. While an employer is normally not required to request any supporting documentation from the employee to support the exemption claim, if the employer is aware the employee is not eligible for exemption (including from statements the employee makes), the employer should generally not accept the W-4.

Employers should seek counsel from their tax advisers if this situation arises to minimize the company's risk of accruing inadvertent tax penalties. Our [tax](#) and [employment](#) lawyers can walk you through your obligations and help you assess whether a claimed exemption is valid, so you can respond with confidence and avoid costly mistakes.

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