

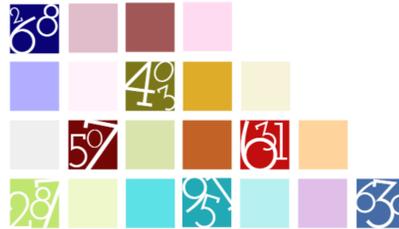


# Tax News and Industry Updates

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## Matching Contributions Made on Account of Qualified Student Loan Payments

### Cross References

- Notice 2024-63

The SECURE 2.0 Act added a provision that allows employer matching contributions to defined contribution plans on account of an employee’s qualified student loan payments (QSLPs). Employer matching contributions include matching contributions to 401(k) plans, 403(b) plans, SIMPLE IRA plans, and governmental section 457(b) plans.

A QSLP is a payment:

- 1) Made by an employee in repayment of a qualified education loan incurred by the employee to pay for qualified higher education expenses of the employee, the employee’s spouse, or the employee’s dependent,
- 2) That does not exceed, when aggregated with other such payments the plan limitations for the year under IRC section 401(m)(4)(D), and

- 3) Certified for the plan year by the employee in a manner that satisfies the certification requirements.

The plan limitations for the year are those limitations that apply to an employee’s maximum 401(k), 403(b), SIMPLE IRA, or 457(b) contributions allowed for the year.

A student loan payment is not a contribution to a retirement plan. However, it may be treated as a contribution for purposes of meeting the matching contribution rules. Thus, the employee makes a repayment of a student loan, and the employer makes a matching contribution to the employee’s retirement plan as if the student loan repayment was an employee elective deferral to a retirement plan. Employers are not required to offer matching contributions on account of QSLPs.

The IRS recently issued detailed guidance in the form of questions and answers with respect to QSLPs and the resulting employer matching contributions. The guidance deals with discrete issues to assist plan sponsors in implementing QSLP match programs. The IRS will also issue proposed regulations based upon this guidance and invites public comments on the guidance. For details, see Notice 2024-63.



## FinCEN BOI Scam Alert

### Cross References

- <https://fincen.gov/boi>

**Alert:** FinCEN has learned of fraudulent attempts to solicit information from individuals and entities who may be subject to reporting requirements under the Corporate Transparency Act.

These fraudulent scams may include:

- Correspondence requesting payment. There is NO fee to file BOI directly with FinCEN. FinCEN does NOT send correspondence requesting payment to file BOI. Do not send money in response to any mailing that claims to be from FinCEN or another government agency.
- Correspondence that asks the recipient to click on a URL or to scan a QR code. Those e-mails or letters are fraudulent. Do not click any suspicious links or attachments or scan any QR codes in emails, on websites, or in any unsolicited mailings.
- Correspondence that references a “Form 4022,” or an “Important Compliance Notice.” This correspondence is fraudulent. FinCEN does not have a “Form 4022.” Do not send BOI to anyone by completing these forms.
- Correspondence or other documents referencing a “US Business Regulations Dept.” This correspondence is fraudulent; there is no government entity by this name.



## Business Tax Account

### Cross References

- FS-2024-27, August 19, 2024

The Internal Revenue Service is continuing to expand the features within Business Tax Account (BTA), an on-line self-service tool for business taxpayers that now allows them to view and make balance-due payments.

Launched last fall, BTA is a key part of the agency’s service improvement initiative funded under the Inflation Reduction Act (IRA). When fully developed, BTA will allow many types of business taxpayers to check their tax history, make payments, view notices, authorize powers of attorney and conduct other business with the IRS.

With the latest expansion, an eligible business taxpayer can now use BTA to pay federal tax deposits (FTDs) and see and make a payment on their full balance due—all in one place. The account is also now accessible in Spanish with more translations planned.

BTA is a key part of the agency’s ongoing work to transform and modernize service at the IRS by offering a seamless and convenient digital experience. It’s also an important part of a wide-ranging initiative to reduce paper-based processes that hamper the IRS and frustrate taxpayers.

**Who can use BTA now?** Business taxpayers who can activate and use their IRS business tax account include:

- A sole proprietor who has an Employer Identification Number (EIN) issued by the IRS.
- An individual partner or individual shareholder with both:

- A Social Security number or an individual tax ID number (ITIN).
- A Schedule K-1 on file (for partners, from 2012–2023; for shareholders, from 2006–2023).

Currently, a limited liability company that reports business income on a Schedule C can’t access Business Tax Account. Future access will be available for these businesses, as well as other entities including tax-exempt organizations, government agencies, partnerships, C corporations and S corporations.

**What can business taxpayers do now?** Within BTA, business taxpayers can now:

- View and make a payment toward a balance due by using a bank account. This includes a payment on a return filed for the current year as well as late payments for past tax years and federal tax deposits.
- Schedule a payment for any business day for up to a year and cancel a scheduled payment.
- View recently processed payments, including payments made through the Electronic Federal Tax Payment System (EFTPS) online, wire transfers, checks or money orders, and see if any payments were returned or refused.
- Store multiple bank accounts in their online “wallet” to manage tax payments.
- Request a tax compliance check.
- View the business name and address on file.
- Give account access to employees of the business.
- Register for clean energy credits (if eligible).
- View and download transcripts for various payroll, income and excise tax returns.
- Sole proprietors can now download business entity transcripts from their BTA account. The transcript shows entity information like business name, mailing address, location address and more for the Employer Identification Number on file.
- View and download select digital notices including:
  - CP080: *Reminder—We Have Not Received Your Return, Credits May be on Your Account.*
  - CP136: *Annual Notification of Federal Tax Deposit (FTD) Requirements (Forms: 941, 941-SS).*
  - CP216F: *Application for Extension of Time to File an Employee Plan Return—Approved.*

**What new features will be added to BTA in the future?** Future capabilities made available through funding from the IRA will enable access by all business and organizational entities and help the business tax account become a robust online self-service tool.

To set up a new business tax account, or for more information visit Business Tax Account at <https://www.irs.gov/businesses/business-tax-account>.



# Required Minimum Distributions Final Regulations

## Cross References

- TD 10001, July 19, 2024

The IRS has issued final regulations on the changes made to the required minimum distribution rules, as reflected by the SECURE Act of 2019 (Public Law 116-94), and the SECURE 2.0 Act of 2022 (Public Law 117-328). The final regulations apply for distribution calendar years beginning on or after January 1, 2025. The final regulations generally follow the proposed regulations issued in 2022, with a few minor changes.

Prior to 2020, taxpayers in general were required to begin taking required minimum distributions (RMDs) from qualified retirement plans and IRAs by April 1 of the calendar year following the calendar year in which the individual reaches age 70½. Each subsequent RMD after the first year must be made by December 31 of each year.

Under the SECURE Act of 2019, the 70½ age threshold was increased to age 72, effective for distributions required to be made after December 31, 2019.

Under the CARES Act, no minimum distributions were required for calendar year 2020. Thus, the first calendar year the age 72 threshold applied was for 2021 (RMDs required to begin by April 1 of 2022 for individuals turning age 72 in 2021).

The SECURE 2.0 Act replaced the age 72 threshold with the following age thresholds.

- 1) Age 73 starting in 2023.
- 2) Age 75 starting in 2033.

The final regulations adopt these changes.

**10-year rule.** The final regulations also provide details on how the new 10-year rule applies to designated beneficiaries that die on or after January 1, 2020.

Prior to the SECURE Act, if an employee died before the required minimum distributions (RMDs) had begun, the employee's interest must either be:

- 1) Distributed within 5 years after the death of the employee (5-year rule), or
- 2) Distributed over the life or life expectancy of the designated beneficiary with the distributions beginning no later than 1 year after the date of the employee's death (with an exception if the designated beneficiary was the employee's surviving spouse).

Under the SECURE Act, the 5-year period under the 5-year rule is lengthened to 10 years (10-year rule). The 10-year rule applies regardless of whether the employee dies before the required beginning date. An exception to the 10-year rule applies if the beneficiary is an

eligible designated beneficiary, in which case distributions are paid over the designated beneficiary's lifetime or life expectancy. An eligible designated beneficiary is either:

- The surviving spouse of the employee,
- A child of the employee who has not reached the age of majority (once he or she reaches the age of majority, the 10-year rule applies),
- A disabled individual,
- A chronically ill individual, or
- An individual who is not more than 10 years younger than the employee.

When an employee or IRA owner dies on or after their required beginning date and their beneficiary follows the 10-year distribution rule, the beneficiary must continue to take annual distributions until the end of the 10-year period, when full distribution is required. This rule also applies after the death of an eligible designated beneficiary taking life expectancy payments and a minor child beneficiary's attainment of the age of majority.

**Note:** Prior to the 10-year rule, designated beneficiaries had 5 years to take a full distribution. However, they could wait until the end of the 5 years to take the full distribution. The proposed regulations adopted a controversial 10-year rule which requires annual distributions, with any remaining amount required to be distributed in full at the end of 10 years. However, Notice 2022-53 provided special transitional relief for 2021 and 2022 in which no RMDs were taken. The final regulations retain this rule.

For details, see the final regulations which can be found at: <https://www.federalregister.gov/documents/2024/07/19/2024-14542/required-minimum-distributions>



## New Self Employment Tax Credit Scam

### Cross References

- IR-2024-187

The Internal Revenue Service has issued a consumer alert following bad advice circulating on social media about a non-existent "Self Employment Tax Credit" that's misleading taxpayers into filing false claims.

Promoters and social media are marketing something they describe as the "Self Employment Tax Credit" as a way for self-employed people and gig workers to get big payments for the COVID-19 pandemic period. Similar to misleading marketing around the Employee Retention Credit, there is inaccurate information suggesting many people qualify for the tax credit and payments of up to \$32,000 when they actually do not.

In reality, the underlying credit being referred to in social media isn't called the "Self Employment Tax Credit," it's a much more limited and technical credit called Credits for Sick Leave and Family Leave. Many people simply do not qualify for this credit, and the IRS is closely reviewing claims coming in under this provision so people filing claims do so at their own risk.

"This is another misleading social media claim that's fooling well-meaning taxpayers into thinking they're due a big payday," said IRS Commissioner Danny Werfel. "People shouldn't be misled by outlandish claims they see on social media. Before paying someone to file these claims, taxpayers should consult with a trusted tax professional to see if they meet the very limited eligibility scenarios."

People who were self-employed can claim Credits for Sick and Family Leave only for limited COVID-19 related circumstances in 2020 and 2021; the credit is not available for 2023 tax returns. The IRS is seeing repeated instances where taxpayers are incorrectly using Form 7202, *Credits for Sick Leave and Family Leave for Certain Self-Employed Individuals*, to incorrectly claim a credit based on income earned as an employee and not as a self-employed individual.

To qualify for the Sick and Family Leave Credits, self-employed workers have to meet a variety of technical reasons in 2020 and 2021 that didn't allow them to work, including caring for an individual subject to a quarantine or isolation order.

The IRS is seeing some similarities to marketing around this "Self Employment Tax Credit" similar to aggressive promotion of the Employee Retention Credit. Both are technical credits that have been mischaracterized by some as a way for average taxpayers to get a big government payment. In reality, these are very limited credits that have a variety of complex requirements before people can qualify.

The IRS urges people to check with a trusted tax professional before filing for any "Self Employment Tax Credit" or any other questionable tax claim circulating on social media.

The IRS has previously warned taxpayers about misuse of the Sick and Family Leave Credits stemming from various tax scams and inaccurate social media advice that led thousands of taxpayers to file inflated refund claims during the past tax season.

In addition to the Sick and Family Leave Credit, the IRS warned taxpayers not to fall for these scams centered around the Fuel Tax Credit and household employment taxes. The IRS has seen thousands of dubious claims come in where it appears taxpayers are claiming credits for which they are not eligible, leading to refunds being

delayed and the need for taxpayers to show they have legitimate documentation to support these claims.

The IRS continues to urge taxpayers to avoid these scams as myths continue to persist that these are ways to obtain a huge refund.

"These improper claims have been fueled by social media and people sharing bad advice," Werfel said. "Scam artists constantly prey on people's hopes and try to use the complexity of the tax system to convince people there are secret ways to get a big refund. All of these scams illustrate that it's important to carefully review the tax return for accuracy before filing and rely on the advice of a trusted tax professional, not someone trying to make a quick buck or a questionable source on social media."



## Tax Payments Using Credit or Debit Cards

### Cross References

- REG-120137-19, July 2, 2024

The IRS has issued proposed regulations regarding the payment of taxes using credit or debit cards.

IRC section 6311(a) allows the IRS to receive payment for Internal Revenue taxes by any commercially acceptable means that the IRS deems appropriate to the extent and under the conditions provided in regulations. Existing Regulation section 301.6311-2 authorizes payment of Internal Revenue taxes by credit or debit card so long as such payments are made in the manner and in accordance with the forms, instructions, and procedures prescribed by the Commissioner of Internal Revenue.

In 2019, Congress passed the Taxpayer First Act (TFA) (Public Law 116-25). Prior to the passage of the TFA, IRC section 6311(d)(2) authorized the IRS to enter into contracts to obtain services related to receiving payment of taxes by credit or debit card, or charge card, but prohibited the IRS from paying any fee or other consideration under any such contract. Existing Regulation section 301.6311-2(e) prohibits the IRS from imposing any fee or charge on persons making payment of taxes by credit card or debit card. Currently, the IRS utilizes third-party processors to process payment of taxes by credit cards, which includes charge cards, and debit cards for which taxpayers pay a processing fee directly to the third-party processor. Third-party processors charge a variable percentage fee for payment by credit card and a flat fee for payment by debit card.

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The TFA amended IRC section 6311(d)(2) by adding a discretionary exception whereby the IRS is no longer prohibited from paying a fee under a contract related to receiving payment of taxes by credit or debit card to the extent that the IRS ensures that any such fee is fully recouped from the persons paying taxes by credit or debit card pursuant to such contract. This provision enables the IRS to receive similar benefits as other entities that accept credit or debit cards, including guaranteed receipt of funds and reduction of paper check processing costs. This provision also enables taxpayers to make a payment more easily by credit or debit card directly to the IRS, such as over the telephone, without having to separately wait for the IRS to connect them to third-party processors. The TFA now gives the IRS flexibility to enter into a contract that would allow taxpayers to pay taxes by credit or debit card directly to the IRS.

The proposed regulations would amend existing regulations to conform to the TFA's amendment to IRC section 6311(d)(2). The proposed regulations would remove both the prohibition of the payment of any fee by the IRS under any contracts related to payment of taxes by credit, debit, or charge card, and the prohibition on the IRS imposing any fee or charge on persons making payment of taxes by credit or debit card.



## Written Information Security Plan

### Cross References

- <https://www.irs.gov/pub/irs-pdf/p5708.pdf>

The IRS has released a new template for creating a Written Information Security Plan, which is required for all tax professionals under the Gramm-Leach-Bliley Act. The new template is intended to provide sample information and to help tax professionals, particularly smaller practices, develop a Written Information Security Plan (WISP). The law requires financial institutions (which includes tax professionals) to protect customer data. As part of that protection, tax professionals must create and maintain a WISP. A WISP must be written and accessible, and requires each firm to:

- Designate a qualified individual to coordinate its information security program,
- Identify and assess the risks to customer information in each relevant area of the company's operation, and evaluate the effectiveness of the current safeguards for controlling these risks,
- Design and implement a safeguards program, and regularly monitor and test it,
- Select service providers that can maintain appropriate safeguards by ensuring your contract requires them to maintain safeguards and oversee their handling of customer information,

- Evaluate and adjust the program considering relevant circumstances, including changes in the firm's business or operations, or the results of security testing and monitoring,
- Implement multi-factor authentication for any individual accessing any information system, unless your qualified individual has approved in writing the use of reasonably equivalent or more secure access controls,
- Report a security event affecting 500 or more people to the FTC as soon as possible, but no later than 30 days from the date of discovery.

The new template is found in IRS Publication 5708 (Revised August of 2024), *Creating a Written Information Security Plan for your Tax & Accounting Practice*. To view this IRS publication along with the new template, go to: <https://www.irs.gov/pub/irs-pdf/p5708.pdf>

