

INTRODUCTION

Federal Payroll Tax Laws & Regulations has been designed specifically for payroll practitioners, accountants, bookkeepers, or attorneys who need the security of the full text of payroll-related sections of the Internal Revenue Code (IRC) and federal tax regulations to complete their research, to support the decisions and recommendations they make. While other compilations of the IRC and the federal tax regulations consist of five or more volumes that make payroll research cumbersome and time-consuming, *Federal Payroll Tax Laws & Regulations* is limited to those laws and regulations that have an impact on the payroll practitioner. For non-tax laws and regulations relating to payroll, see *Federal Payroll Non-Tax Laws & Regulations*, also published by PayrollOrg.

The Internal Revenue Code and IRS Regulations

The United States Code (USC) is the official compilation of all federal statutory law, of which the IRC comprises Title 26. Sections of the IRC are often referred to as the “Code” or by USC citation. For example, Section 62 of the IRC (relating to adjustments to gross income), can be cited as “IRC §62,” “Code §62” or “26 USC §62.” This text sets out IRC sections using the “Code” designation, e.g., “Code §62.”

The Internal Revenue Service (IRS) is the agency that administers and enforces the IRC and has formulated many regulations to help it in its mission. Regulations of the federal government are collected in an official compilation known as the Code of Federal Regulations (CFR). IRS regulations are found in Title 26 of the CFR. Title 26 is further broken down into several parts. The regulations found most often in this book are contained in:

- Part 1—Income Tax
- Part 31—Employment Taxes and Collection of Income Tax at Source
- Part 301—Procedure and Administration

IRS regulations can be identified by citing them as “IRS Reg.” or by CFR citation. A section number of an IRS regulation is composed of the part number from which it comes, followed by a period, the number of the IRC section to which it refers (sometimes followed by a further section breakdown, such as by subsection and paragraph), and then a hyphen and the regulation number. For example:

- The second IRS regulation in 26 CFR Part 1 interpreting Code §217 (dealing with job-related moving expense deductions) can be cited as “IRS Reg. §1.217-2” or “26 CFR §1.217-2.”
- The first regulation in 26 CFR Part 1 construing 26 USC §501, subsection (c), paragraph (3), can be cited as “IRS Reg. §1.501(c)(3)-1” or “26 CFR §1.501(c)(3)-1.”

How this book is arranged

Federal Payroll Tax Laws and Regulations is arranged numerically by Code section, followed immediately by the regulations interpreting that Code section. For example, the regulations interpreting fringe benefits (§1.132-1 et seq.) immediately follow the text of Code §132.

At the end of most Code sections and all regulations, there is an italicized citation indicating either the enactment or the most recent amendment to the law or regulation. (Code sections without a citation have not been amended since their enactment as part of the Internal Revenue Code.)

The Code section citations refer to the federal law that created the enactment or amendment by its Public Law (Pub. L.) number. For example, a statute citing Pub. L. 117-328 (the Consolidated Appropriations Act, 2023) indicates that it was the 328th law enacted during the 117th session of Congress.

The regulation citations refer to the Treasury Decision number and/or Federal Register citation containing the most recent amendment to the regulation (see discussion below).

Proposed, final, and temporary regulations

Federal Payroll Tax Laws and Regulations contains proposed, temporary, and final IRS regulations. Proposed regulations are issued with the purpose of eliciting public comment for IRS consideration. After the comment period has ended, the IRS will generally hold one or more public hearings on the proposal and then consider all of the written and oral comments. During the comment period, the IRS may also issue temporary regulations on the same subject matter if quick guidance is needed. For example, in December 1994, the IRS issued both temporary and proposed regulations governing the establishment of electronic Form W-4 systems by employers. Before final regulations were issued, employers could rely on the temporary regulations to begin accepting electronic W-4 changes from employees, even though they were altered by the final regulations.

Proposed regulations follow the same numbering scheme as final regulations. In this book, the section headings indicate proposed regulation numbers with the words “Proposed Reg.” (e.g., Proposed Reg. §1.125-7).

Temporary regulations can be relied on by IRS personnel and payroll practitioners until final regulations are issued. In this book, the section headings of temporary regulations begin with the words “Temporary Reg.” In addition, temporary regulations are identified by a “T” at the end of the section number (e.g., Temporary Reg. §1.162-25T).

After considering all the comments on the proposed regulations, the IRS will issue final regulations containing whatever changes it feels are necessary from the original proposal. Once the final regulations are issued and take effect, the temporary regulations are no longer effective. The final regulations are issued as Treasury Decisions, which are expressed as “T.D.” followed by a number (e.g., T.D. 9984).

All proposed, temporary, and final regulations are published in the Federal Register, a daily publication containing information published by all federal executive agencies. Citations to the Federal Register appear, for example, as 88 F.R. 87696, December 19, 2023, with “88” referring to the Volume number, “87696” to the page number, and the date of the particular issue.

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