

## Form W-4 for 2022

### The Short Version

Although withholding allowances do not apply, it is still possible to control income tax withholding from wages. For each Form W-4, simply either:

(1) write “Exempt” on Page 1 in the space below Step 4(c) and “you will have no income tax withheld from your paycheck” [2022 Form W-4] **OR**

(2) calculate deductions to reduce your withholding:

(a) project the annual total of gross wages paid to you and your share of profits and losses from entities you own;

(b) subtract your standard deduction listed on Page 3, Step 4(b), Line 2; and

(c) enter the result on Page 1, Step 4(b).

Repeat either step each January.

### The Long Version

For years through 2019, the IRS named Form W-4 as “Employee’s Withholding Allowance Certificate” and explained “exempt” this way:

- For [last year] you had a right to a refund of **all** federal income tax withheld because you had **no** tax liability, **and**
- For [this year] you expect a refund of all federal income tax withheld because you expect to have **no** tax liability [Form W-4].

For 2020 onward, the IRS **abbreviated** the name of Form W-4 as “Employee’s Withholding Certificate” and explained “exempt” slightly differently:

**Exemption from withholding.** You may claim exemption from withholding for [this year] if you meet both of the following conditions: you had no federal income tax liability [last year] **and** you expect to have no federal income tax liability [this year]. You had no federal income tax liability [last year] if (1) your total tax on line 24 on your [last year] Form 1040 or 1040-SR is zero (or less than the sum of lines 27a, 28, 29, and 30) [either you had a calculated total tax of zero or you had total refundable credits greater than the calculated total tax], or (2) you were not required to file a return because your income was below the filing threshold for your correct filing status. If you claim exemption, you will have no income tax withheld from your paycheck and may owe taxes and penalties when you file your [this year] tax return. **To claim exemption from withholding, certify that you**

meet both of the conditions above by writing “Exempt” on Form W-4 in the space below Step 4(c). Then, complete Steps 1(a), 1(b), and 5. Do not complete any other steps. You will need to submit a new Form W-4 by February [next year] [2022 Form W-4].

However, for years through 2014, the IRS stated this right:

You are responsible for paying only the correct amount of tax due under the law—no more, no less [V. Payment of Only the Correct Amount of Tax, IRS Publication 1 Your Rights as a Taxpayer].

As of 12/2014, the IRS **re**-stated this right:

Taxpayers have the right to pay only the amount of tax legally due [3. The Right to Pay No More than the Correct Amount of Tax, IRS Publication 1 Your Rights as a Taxpayer].

Nevertheless, decades earlier, the Supreme Court pronounced:

Anyone may so arrange his affairs so that his taxes shall be as low as possible. He is not bound to choose that pattern which best pays the treasury. There is not even a patriotic duty to increase one’s taxes [Weeks v Sibley; Edwards v. Commissioner; Helvering v. Gregory; and 60 Federal 2<sup>nd</sup> 809, United States Supreme Court Justice Learned Hand (1872-1961)].

Rearranging affairs so that taxes due shall be legally as low as possible begins with updating Form W-4 for each employer—either (1) writing “Exempt” on Page 1 in the space below Step 4(c) or (2) entering on Page 1, Step 4(b) the difference between (a) the annual total of gross wages paid to you and your share of profits and losses from entities you own and (b) your standard deduction listed on Page 3, Step 4(b), Line 2—and thus preventing income tax withholding from earnings. The taxpayer is otherwise at great risk of paying—without being refunded—far beyond the requirements of the actual language of the law since permitting tax withholding begins a process of creating appearance of liability—and the US Treasury-IRS thus presumes the existence of liability—even if liability is not otherwise established by the actual language of the law.