

Underwithheld? There's a penalty for that

When the Tax Cuts and Jobs Act passed last December, Congress and the administration's worst nightmare was that taxpayers would wake up next winter owing huge amounts to the U.S. Treasury because they were underwithheld this year.

To combat that, the IRS has been trying all year to get employees to align their withholding and their tax liability. It declared [two](#) Paycheck Checkup weeks. Former acting IRS Commissioner David J. Kautter publicized the calculator and wanted 200,000 taxpayers to use it. We here at Payroll Today [obliged](#) but didn't have an easy time of it.

Despite all this publicity, not many people used the calculator. And that's not a surprise. Employees generally don't pay attention to their income tax liability, because their taxes are, after all, withheld. But this inattention may mean trouble next winter, when employees (or their accountants) start filing their 1040s.

This is probably your last chance to grab employees' attention and warn them of impending tax doom.

Anatomy of a tax penalty

Employees will be liable for an underpayment penalty on their 1040s if they don't have enough tax withheld and don't make that up by paying quarterly estimated taxes. And there's only one quarterly estimated tax payment left this year—the fourth quarter payment, which is due Jan. 15, 2019.

An underpayment penalty for 2018 may be assessed if the total of employees' income tax withholding and timely estimated tax payments didn't equal at least the smaller of:

- 90% of their 2018 tax
- 100% of their 2017 tax (110% of their 2017 tax, if employees' adjusted gross income exceeded \$150,000 for 2017).

There are some exceptions. An underpayment penalty for 2018 won't be assessed if any of the following apply:

- The total of employees' withholding and timely estimated tax payments was at least as much as their 2017 taxes
- The tax balance due on a 2018 return is no more than 10% of employees' total 2018 tax and they timely paid estimated tax payments
- Employees' total tax for 2018, minus their withholding, is less than \$1,000.

It is confusing, isn't it? In fact, it's so confusing that the IRS would prefer it if you didn't figure your own penalty. It will figure it for you.

Penalty relief coming?

IRPAC—the IRS' Information Reporting Advisory Committee—recently released its report for tax year 2018. Citing the major changes to the tax code made by the TCJA (e.g., the doubling of the standard deduction, the suspension of personal exemptions and most Schedule A deductions and the \$10,000 cap on state and local

deductions), it recommended that the IRS automatically waive the underpayment penalty for 2018 returns.

“Automatic” is the key word. Without an automatic waiver, employees, or more likely, their accountants, will have to negotiate a penalty waiver.

Sounds good. But what does the IRS have to say? Well, it’s taking it under advisement.

One last plug for the calculator

Employees have a scant two months left to avoid any penalty when they file their 2018 1040s. You can either direct them to the IRS’ [withholding calculator](#) or advise them to speak with their accountants. The one person they shouldn’t be talking to is you.

Remember the golden rule: Payroll can’t give employees tax advice. You can assist employees with the withholding calculator, by, for example, telling them their pay period, but that’s it.