



# Tax News and Industry Updates

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## BURTON-LYMAN

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### Inside This Issue

Standard Mileage Rate.....	1
HSA Inflation Adjusted Amounts.....	1
IRS Has Destroyed Millions of Paper Filed 1099s.....	2
Taxpayers Can Now Track Refunds for Past Two Years.....	2
More Options to Correct Returns Electronically.....	3
Employer Leave-Based Donation Program.....	3
Clothing Resembling Scrubs Deductible as Uniforms.....	4

## Standard Mileage Rate

### Cross References

- Rev. Proc. 2010-51
- Notice 2022-03
- Announcement 2022-13

The IRS has revised the 2022 standard mileage rates for taxpayers to use in computing the deductible costs of operating an automobile for business, charitable, medical, or moving expense purposes. The revised rates apply to deductible transportation expenses paid or incurred on or after July 1, 2022. The standard mileage rates set forth in Notice 2022-03 continue to apply to deductible transportation expenses paid or incurred before July 1, 2022.

The following chart reflects the new revised 2022 standard mileage rates compared to the previous period.

	Beginning July 1, 2022	Before July 1, 2022
Business rate per mile*	62.5¢	58.5¢
Medical and moving rate per mile**	22.0¢	18.0¢

*continued*

	Beginning July 1, 2022	Before July 1, 2022
Charitable rate per mile	14.0¢	14.0¢
Depreciation rate per mile	26.0¢	26.0¢

\* A deduction for unreimbursed employee business travel is suspended for tax years 2018 through 2025, unless the deduction is allowed in determining adjusted gross income, such as members of a reserve component of the Armed Forces, state or local government officials paid on a fee basis, or certain performing artists.

\*\* A deduction for moving expenses is suspended for tax years 2018 through 2025, unless the taxpayer is a member of the Armed Forces on active duty who moves pursuant to a military order and incident to a permanent change of station.



## HSA Inflation Adjusted Amounts

### Cross References

- IRC §223
- Rev. Proc. 2022-24
- Rev. Proc. 2021-25

The IRS recently announced inflation adjusted amounts for health savings accounts (HSAs) for 2023. These amounts are reflected in the chart below in comparison to 2022.

### HSA Limitations

Annual contribution is limited to:	2023	2022
Self-only coverage, under age 55	\$3,850	\$3,650
Self-only coverage, age 55 or older	\$4,850	\$4,650
Family coverage, under age 55	\$7,750	\$7,300
*Family coverage, age 55 or older	\$8,750	\$8,300

*continued*

*HSA Limitations continued*

Minimum annual deductibles:	2023	2022
Self-only coverage	\$1,500	\$1,400
Family coverage	\$3,000	\$2,800

  

Maximum annual deductible and out-of-pocket expense limits:		
Self-only coverage	\$7,500	\$7,050
Family coverage	\$15,000	\$14,100

\* Assumes only one spouse has an HSA. See IRS Pub. 969 if both spouses have separate HSAs.

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## IRS Has Destroyed Millions of Paper Filed 1099s

### Cross References

- [irs.gov](https://irs.gov)

An IRS statement on information returns posted on their website on May 13, 2022 states the following:

*“We processed 3.2 billion information returns in 2020. Information returns are not tax returns, and they are documents submitted to the IRS by third-party payors, not taxpayers. 99% of the information returns we used were matched to corresponding tax returns and processed. The remaining 1% of those documents were destroyed due to a software limitation and to make room for new documents relevant to the pending 2021 filing season.*

*There were no negative taxpayer consequences as a result of this action. Taxpayers or payers have not been and will not be subject to penalties resulting from this action.*

*Broadly, this situation reflects the significant issues posed by antiquated IRS technology. In 2020, the IRS prioritized the processing of backlogged tax returns to get taxpayers their refunds and support other COVID-related relief over inputting the less than 1% of information documents – mostly Form 1099s – that were submitted on paper.*

*System constraints require IRS to process these paper forms by the end of the calendar year in which they were received. This meant that these returns could no longer be processed once filing season 2021 began. Not processing these information returns did not impact original return filing by taxpayers in any way as taxpayers received their own copy to use in filing an accurate return.*

*The IRS processed all paper information returns received in 2021 and plans to process those received in 2022.*

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## Taxpayers Can Now Track Refunds for Past Two Years

### Cross References

- IR-2022-109, May 25, 2022

The Internal Revenue Service made an important enhancement to the Where’s My Refund? online tool this week, introducing a new feature that allows taxpayers to check the status of their current tax year and two previous years’ refunds.

Taxpayers can select any of the three most recent tax years to check their refund status. They’ll need their Social Security Number or ITIN, filing status and expected refund amount from the original filed tax return for the tax year they’re checking.

Previously, Where’s My Refund? only displayed the status of the most recently filed tax return within the past two tax years. Information available to those calling the refund hotline will be limited to the 2021 tax return.

Using Where’s My Refund?, taxpayers can start checking the status of their refund within:

- 24 hours after e-filing a tax year 2021 return.
- Three or four days after e-filing a tax year 2019 or 2020 return.
- Four weeks after mailing a return.

The IRS reminds taxpayers that Online Account continues to be the best option for finding their prior year adjusted gross income, balance due or other type of account information.

*“We encourage those who expect a refund, but requested an extension, to file as soon as they’re ready. We process returns on a first-in basis, so the sooner the better,”* said IRS Commissioner Chuck Rettig. *“There’s really no reason to wait until October 17 if filers have the relevant information to file now. Free File is still available for extension recipients to use to prepare and file their federal tax return for free.”*

Electronic filing is open 24/7 and the IRS continues to receive returns and issue refunds. Once taxpayers have filed, they can track their refund with Where’s My Refund?

### About the Where’s My Refund? Tool

This helpful tool, accessible on [IRS.gov](https://irs.gov) or the IRS2Go mobile app, allows taxpayers to track their refund through three stages.

- 1) Return received.
- 2) Refund approved.
- 3) Refund sent.

The tool is updated once a day, usually overnight, and gives taxpayers a projected refund issuance date as soon as it’s approved.

It's also one of the most popular online features available from IRS. The Where's My Refund? tool was developed in 2002 and was used by taxpayers more than 776 million times in 2021.

## Enhancing Taxpayer Experience and IT Modernization

The IRS continues to enhance the customer experience by enhancing and expanding digital tools that deliver improved services to taxpayers.

"The IRS is committed to identifying opportunities to make improvements in real time for taxpayers and the tax professional community," said Rettig. "This enhancement to Where's My Refund? is just one of many."

## Additional Refund Status Information

There's no need to call the IRS to check on refund status unless it has been more than 21 days since the return was filed or the tool indicates the IRS can provide more information.

If the IRS needs more information to process the return, the taxpayer will be contacted by mail.

For more information about checking the status of a tax refund, please visit Where's My Refund? at <https://www.irs.gov/refunds>.



## More Options to Correct Returns Electronically

### Cross References

- IR-2022-130, June 23, 2022

The IRS has announced that more forms can now be amended electronically. These include people filing corrections to the Form 1040-NR, *U.S. Nonresident Alien Income Tax Return*, Form 1040-SS, *U.S. Self-Employment Tax Return (Including the Additional Child Tax Credit for Bona Fide Residents of Puerto Rico)*, and Form 1040-PR, *Self-Employment Tax Return—Puerto Rico*.

"This initiative has come a long way from 2020 when we first launched the ability to file amended returns, which was an important milestone to help taxpayers and the tax community," said IRS Commissioner Chuck Rettig. "This new feature will further help people needing to make corrections. This development will also assist the IRS with its inventory work on the current backlog of amended returns. This is another tool we're using to help get us back on track."

Additionally, a new electronic checkbox has been added for Forms 1040/1040-SR, 1040-NR and 1040-SS/1040-PR to indicate that a superseding return is being filed electronically. A superseded return is one that is filed

after the originally filed return but submitted before the due date, including extensions.

Taxpayers can also amend their return electronically if there is change to their filing status or to add a dependent who was previously claimed on another return.

About 3 million Forms 1040-X are filed by taxpayers each year. Taxpayers can still use the Where's My Amended Return? online tool to check the status of their electronically-filed Form 1040-X.

Forms 1040 and 1040-SR can still be amended electronically for tax years 2019, 2020 and 2021 along with amended Form 1040-NR and corrected Forms 1040-SS and Form 1040-PR for tax year 2021.

In general, taxpayers still have the option to submit a paper version of the Form 1040-X and should follow the instructions for preparing and submitting the paper form.



## Employer Leave-Based Donation Program

### Cross References

- IRC §170(c)
- Notice 2022-28

The invasion of Ukraine by the Russian Federation beginning on February 24, 2022 has caused widespread loss of human life and other loss to the citizens and residents of Ukraine. On March 2, 2022, the President of the United States announced a continuation of the national emergency with respect to Ukraine because certain actions and policies of the Russian Federation threaten the peace, stability, sovereignty, and territorial integrity of Ukraine. On March 3, 2022, the Department of Homeland Security announced that it has designated Ukraine for Temporary Protected Status.

The IRS is aware that employers may have adopted or may be considering adopting employer leave-based donation programs to aid citizens and residents of Ukraine, individuals working or traveling or currently present in Ukraine, or refugees from Ukraine. The IRS has released new guidance on the federal income and employment tax treatment of cash payments made by employers under leave-based donation programs to aid victims of the Russian invasion of Ukraine.

Under employer leave-based donation programs, employees can elect to forgo vacation, sick, or personal leave in exchange for their employers making cash payments to charitable organizations described in IRC section 170(c).

Under Notice 2022-28, employer leave based donation payments made by an employer before January 1, 2023 to a qualified charity to aid victims of the Russian invasion of Ukraine will not be treated as gross income or wages of the employees of the employer. Similarly, employees electing or with an opportunity to elect to forgo leave that funds the qualified employer leave-based donation payments will not be treated as having constructively received gross income or wages. Employers should not include the amount of qualified employer leave-based donation payments in Box 1, 3, or 5 of the electing employees' Form W-2. Electing employees are not eligible to claim a charitable contribution deduction for the value of the forgone leave that funds qualified employer leave-based donation payments.

An employer may deduct qualified employer leave-based donation payments as either a charitable contribution under IRC section 170, or as a business expense under IRC section 162, if the employer otherwise meets the respective requirements of either section of the Internal Revenue Code.



## Clothing Resembling Scrubs Deductible as Uniforms

### Cross References

- *Romana*, T.C. Summary 2022-9, June 16, 2022

The taxpayer was employed as a nurse in a plastic surgery clinic operated by Kaiser Permanente. Kaiser's dress code required the taxpayer to be dressed in comfortable clothes and in a manner that reflected her profession as a nurse. Neither Kaiser nor her union had a policy that allowed reimbursement for the expenses she incurred to purchase clothing that satisfied her employer's dress code.

While at work, the taxpayer wore clothing that resembled scrubs that she purchased at her own expense from local department stores. In the operating room she was required to wear scrubs provided by Kaiser. Routinely, depending upon the operation schedule for any given day, she changed back and forth between her scrub like clothing and the operating room scrubs her employer provided.

The taxpayer deducted these costs, along with the cost of cleaning, as unreimbursed employee business expenses. The IRS disallowed the deduction.

**Note:** The tax year at issue was prior to the temporary suspension of miscellaneous itemized deductions for tax years beginning after December 31, 2017 and before January 1, 2026. The rules at issue in this case, however, are still applicable for self-employed taxpayers.

The court stated the cost of a business wardrobe, even if required as a condition of employment, is considered a nondeductible personal expense under IRC section 262. Those costs are not deductible even when it has been shown that the particular clothes would not have been purchased but for the employment.

Clothing costs are deductible as ordinary and necessary business expenses under IRC section 162 only if:

- 1) The clothing is of a type specifically required as a condition of employment,
- 2) It is not adaptable to general use as ordinary clothing, and
- 3) It is not so worn.

The court stated the taxpayer was required to dress professionally and comfortably for her job as a nurse. To do so, she purchased shirts and pants at department stores. Because the clothing resembled scrubs, the clothing was not adaptable to general use as ordinary clothing outside of her employment. Consequently, the cost of the clothing and the cost to clean the clothing are deductible.

**Note:** Of interest in this case is that the scrubs were purchased at a local department store and merely resembled work clothes. They did not need to be purchased through some official medical uniform supply company, nor did they need to have a company logo attached. The court focused on whether or not the clothing was adaptable to general use as ordinary clothing.

