



STATE OF MICHIGAN
DEPARTMENT OF CORRECTIONS
LANSING

GRETCHEN WHITMER
GOVERNOR

HEIDI E. WASHINGTON
DIRECTOR

DIRECTOR'S OFFICE MEMORANDUM 2022 – 5

EFFECTIVE: January 1, 2022

DATE: December 16, 2021

TO: Executive Policy Team
Administrative Management Team
Wardens

FROM: Heidi E. Washington, Director

SUBJECT: Prisoner Tax Withholding

SUPERSEDES DOM 2021 - 9 (effective 01/01/2021)

To comply with Internal Revenue Service (IRS) regulations, the Department completes an IRS form 1099-MISC "Miscellaneous Income" for each prisoner who was paid \$600 or more for a work or school assignment during the prior taxable year. The Department is required to file a copy with the IRS on behalf of the prisoner and review a copy with the prisoner. The IRS has notified the Department that some legal names and/or Social Security numbers reported for prisoners on the IRS form 1099-MISC often do not match IRS records and that the Department must take action to attempt to remedy this. To do so, the Department must request each prisoner assigned to work or school to complete either an IRS Form W-8 "Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding" or an IRS Form W-9 "Request for Taxpayer Identification Number and Certification form." The W-8 must be completed by prisoners who are not United States citizens. The W-9 must be completed by prisoners who are United States citizens. When completing the forms, the prisoner must provide their legal name and, on the W-9, provide their Social Security number (prisoners who have legally changed their names should include all past and current legal names). More specific information has been provided to Wardens on the process to be followed to ensure these forms are completed as required by the IRS in a timely manner.

In accordance with IRS regulations, the Department is required to withhold income tax from work or school pay received by prisoners who are not United States citizens. The required rate for this withholding is 30% without any exceptions.

The Department is not required to withhold income tax from work or school pay received by prisoners who are United States citizens if the prisoner's legal name and/or Social Security number as reported on the W-9 is verified by the IRS. However, if this information cannot be verified by the IRS or if the prisoner does not have a Social Security number, IRS regulations require the Department to withhold income tax at the rate of 24%. If a prisoner's name and Social Security number as entered by the prisoner on the W-9 cannot be verified by the IRS, the prisoner will be required to complete another

W-9 in order to obtain the correct information. Once the information is verified by the IRS, the Department is authorized to stop further backup withholding and will do so immediately.

All backup withholding required to be collected by the IRS is remitted by the Department to the IRS. Only the IRS may determine if the prisoner is entitled to a refund of backup withholding collected by the Department. Any refund will be in accordance with IRS regulations and only if the prisoner files an annual tax return.

The Administrator of Fiscal Management, Budget and Operations Administration or designee shall identify all prisoners subject to the 24 or 30% backup withholding. Prisoners who are subject to the 24 or 30% backup withholding will have their total payroll deposited into their trust account and the 24 or 30%, as appropriate, collected as a debt prior to any other debt collection. This may affect a prisoner's eligibility for indigent status as set forth in PD 04.02.120 "Indigent Prisoners."