

# 2009 PAYROLL TAX UPDATE

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## TOPICS

- 2009 changes
- Employee vs. Nonemployee & Director Compensation
- New 941-X
- Form W-4
- Employer provided cell phones & computers
- Other issues
  - Record safety
  - Supplemental pay

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## 2009 CHANGES

- Social Security wage base – \$106,800
- 401k max – \$16,500
- Defined contribution plan max – \$49,000
- Simple IRA's – \$11,500
- Mileage rate – 2009 – 55 cents/mile
- Per diem – Hi/Lo Method

|    | Total | Lodging | M&E  |
|----|-------|---------|------|
| Hi | \$256 | \$198   | \$58 |
| Lo | \$158 | \$113   | \$45 |

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### Employee vs. Nonemployee

Tests

- Test for Statutory Nonemployee Occupations ie. Real estate agents/direct sellers
- Section 530 relief – consistency, industry practice
- Common law rules

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### Common Law Rule

Worker is an employee if the employer retains the right to control both what must be done and how it must be done

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### Protections

- Complete a SS-8 – Determination of Worker Status for questionable workers
- Written agreements/contracts
- Common law rules – 20 Factors – Rev. Rul. 87-41

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## Penalties

- Intentional misclassified worker may result in the employer owing employer and employees share of FICA
- May also be liable for full income tax affect – federal withholding

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## How issues arise

Self Employment Tax at the individual level. 1099 is taxed at 15.3% off the top and also will owe federal income tax.

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## DIRECTOR COMPENSATION

- Payments normally non-employee compensation
- Not subject to the withholding of taxes
- All payments
  - Director Fees
  - Health Insurance
  - Travel Expenses, spousal travel
  - Gifts

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## DIRECTOR COMPENSATION

### Directors Tax Consequences

- Include 1099 on personal 1040 subject to self employment taxes
- Health insurance could be deducted as SE health insurance
- Use Schedule C to offset amounts received for travel

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## Form 941-X

- FINALLY
- Effective for 2009.
- Separate form 941-X must be filed for each quarter that is incorrect.

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## Form W-4

- Employer Requirements
- Processing & Determining Employee Allowances
- Special Rules
- When to Amend

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### Form W-4 – Employer Requirements

- Employer must withhold
- W-4 must be kept on file
- New hires must complete a new Form W-4
- Not required to verify
- IRS Pub. 919 – How do I adjust my w/h?
- [www.irs.gov/individuals](http://www.irs.gov/individuals) - online withholding calculator

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### Form W-4 – Employer Requirements

- Must be kept for 4 years from due date of tax returns – April 15th

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### Form W-4 - Processing

- Employer should withhold based on W-4 – unless notified
- Not required to send to the IRS – unless notified
- Employer is not responsible for verifying
- Must be kept confidential

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### Form W-4 – Special Rules

- Claiming exempt
  - Must expect to owe no income taxes in CY
  - Or had no income tax liability in prior year

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### Form W-4 - Special Rules

- Amending W-4
  - Changes affect current year – it is employee's responsibility

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### Other Taxable Fringe Benefits

- Cell phones & computers – personal use is taxable
- Cannot exempt by claiming “no personal use” per the IRS Executive Fringe Benefits Audit Techniques Guide.
- Should create/maintain logs – employee's responsibility
- IRS is aware of accounting nightmare – may be changes in the future

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## EMPLOYEE RECORD SAFETY

Identity theft is a huge worldwide problem

Several ways to make sure records are secure.

IRS does not send email!

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## EMPLOYEE RECORD SAFETY

- Assign computer access to appropriate personnel
- Make sure throw away documents are shredded by appropriate personnel
- Lock hard copies of payroll records in a secure area
- Keep offsite storage secure
- Consider updating policies

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## SUPPLEMENTAL PAY

Supplemental pay includes any compensation that an employee receives in addition to regular wages

Bonuses & Commission

Prizes & Awards

Taxable fringe benefits

Accrued sick/vacation pay

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## SUPPLEMENTAL PAY

Two ways to withhold federal taxes on supplemental pay:

- Combine supplemental pay with closest regular wages – withhold taxes on total combination
- Flat 25%

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## SUPPLEMENTAL PAY

- Update policies
- Keep file of employee choices

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## INFORMATION

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