

2013 PAYROLL TAX UPDATE

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TOPICS

- 2013 changes
- Worker Classification Issues
- Cell Phones
- Employee Gifts & Awards
- Employer Provided Transportation
- Expense Reimbursements
- Supplemental Pay Issues
- Reconciling Payroll

2013 CHANGES

- Social Security wage base – \$113,700
- 401k max – \$17,500
- Defined contribution plan max – \$51,000
- Simple IRA's – \$12,000
- IRA's - \$5,500
- Mileage rate – 2013 - \$.565
- Per diem – Hi/Lo Method – unchanged for 2013

	Total	Lodging	M&E
Hi	\$242	\$177	\$65
Lo	\$163	\$111	\$52

Worker Classification

- IRS study on the subject found that 15% of employers misclassified 3.4 million workers as independent contractors, causing an estimated total tax loss of \$2.7 billion.
- IRS initiated Voluntary Classification Settlement Program (VCSP), reduces tax, reduces penalties, reduce threat of audit.

Worker Classification

- In 2010, (2011, 2012, & 2013) for the next 3 years the IRS announced a minimum of 2,000 FUTA tax audits would be conducted. Primary focus, worker classification and executive compensation.
- IRS proposed \$14 million assessment against Federal Express for improper classification of workers.
- Primary Focus is to decrease the tax gap

Worker Classification

- IRS: 3 categories of independence
 - Behavioral: does the company control how employee does job
 - Financial: are the business aspects of the employee controlled by company, ie how paid, reimbursements, tools etc.
 - Type of Relationship: are there written contracts?

Worker Classification

- Use Form SS-8 – determination of worker status

Worker Classification

Form SS-8 <small>(Rev. August 2011)</small>		Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding		<small>OMB No. 1545-0004</small> For IRS Use Only: Case Number: _____ Earliest Receipt Date: _____
Department of the Treasury Internal Revenue Service				
Name of firm (or person) for whom the worker performed services		Worker's name		
Firm's mailing address (include street address, apt. or suite no., city, state, and ZIP code)		Worker's mailing address (include street address, apt. or suite no., city, state, and ZIP code)		
Trade name	Firm's email address	Worker's daytime telephone number	Worker's email address	
Firm's fax number	Firm's website	Worker's alternate telephone number	Worker's fax number	
Firm's telephone number (include area code)	Firm's employer identification number	Worker's social security number	Worker's employer identification number (if any)	
Note. If the worker is paid for these services by a firm other than the one listed on this form, enter the name, address, and employer identification number of the payer. ▶ _____				
Disclosure of Information				
The information provided on Form SS-8 may be disclosed to the firm, worker, or payer named above to assist the IRS in the determination process. For example, if you are a worker, we may disclose the information you provide on Form SS-8 to the firm or payer named above. The information can only be disclosed to assist with the determination process. If you provide incomplete information, we may not be able to process your request. See <i>Privacy Act and Paperwork Reduction Act Notice</i> on page 6 for more information. If you do not want this information disclosed to other parties, do not file Form SS-8.				
Parts I-V. All filers of Form SS-8 must complete all questions in Parts I-IV. Part V must be completed if the worker provides a service directly to customers or is a salesperson. If you cannot answer a question, enter "Unknown" or "Does not apply." If you need more space for a question, attach another sheet with the part and question number clearly identified. Write your firm's name (or workers' name) and employer identification number (or social security number) at the top of each additional sheet attached to this form.				
Part I General Information				
1 This form is being completed by: <input type="checkbox"/> Firm <input type="checkbox"/> Worker; for services performed _____ to _____. <small>(beginning date) (ending date)</small>				
2 Explain your reason(s) for filing this form (for example, you received a bill from the IRS, you believe you erroneously received a Form 1099 or Form W-2, you are unable to get worker's compensation benefits, or you were audited or are being audited by the IRS). _____ _____				
3 Total number of workers who performed or are performing the same or similar services: _____				
4 How did the worker obtain the job? <input type="checkbox"/> Application <input type="checkbox"/> Bid <input type="checkbox"/> Employment Agency <input type="checkbox"/> Other (specify) _____				
5 Attach copies of all supporting documentation (for example, contracts, invoices, memos, Forms W-2 or Forms 1099-MISC issued or received, IRS closing agreements or IRS rulings). In addition, please inform us of any current or past litigation concerning the worker's status. If no income reporting forms (Form 1099-MISC or W-2) were furnished to the worker, enter the amount of income earned for the year(s) at issue \$ _____. If both Form W-2 and Form 1099-MISC were issued or received, explain why. _____				
6 Describe the firm's business. _____ _____				
For Privacy Act and Paperwork Reduction Act Notice, see page 6. <small>Cat. No. 15100T Form SS-8 (Rev. 8-2011)</small>				

Cell Phones

- Notice 2011-72
- History – Jan 1 2010, cell phones removed from “listed property”
- However, still didn’t address personal use by employees and how to tax.
- Now – employer provided cell phones primarily for noncompensatory business reasons, neither the personal or business use taxable to employee.

Cell Phones

- No record keeping is required
- Employer's reimbursement of personal cell phone for bona fide business use won't be taxable
- However
 - Must be reasonable to business use/needs
 - Must not be substitute for employee salary

EMPLOYEE GIFTS & AWARDS

ALL gifts are normally taxable compensation to the employee

Only exception – *de minimus* tangible property

Cash or Cash Equivalents **ALWAYS** taxable

EMPLOYEE GIFTS & AWARDS

EMPLOYEE AWARDS

Can be exempt from employee's compensation if it is for tangible personal property – not cash, vacations, meals, lodging, entertainment tickets, stocks

Also, must meet the following 3 criteria

EMPLOYEE GIFTS & AWARDS

- Length of service or safety achievement
- Meaningful presentation
- No significant likelihood of disguised compensation

OTHER GIFTS

- Customer Gifts

1099 MISC instructions state that a 1099 must be sent if the business gave prizes or awards of \$600 or more that were not for services rendered (Box 3).

Example – Annual meeting door prizes (cash, vacation, used co-op vehicle)

EMPLOYER PROVIDED TRANSPORTATION

- Working condition fringe benefit if proven business use
- Any personal use, unless *de minimus*, considered non-cash compensation and must be valued

EMPLOYER PROVIDED TRANSPORTATION

Keeping Adequate Records

- Employees Responsibility to prove business use
- Done by mileage logs – substantiate date, number of miles driven, and business purpose

EMPLOYER PROVIDED TRANSPORTATION

Valuing personal use

- Cents-per-Mile Valuation Rule
- Commuting Valuation Rule
- Lease Valuation Rule

EMPLOYER PROVIDED TRANSPORTATION

Cents-per-Mile Valuation

Driven at least 10,000 miles/yr

FMV < \$14,800

EMPLOYER PROVIDED TRANSPORTATION

Commuting valuation rule

Employee must be **REQUIRED** to commute
in the employer provided vehicle

EMPLOYER PROVIDED TRANSPORTATION

Commuting valuation rule

Also must meet 4 Criteria

EMPLOYER PROVIDED TRANSPORTATION

Commuting valuation rule

- Vehicle provided for primarily business use
- Business reasons (other than just an additional fringe) for requiring vehicle
- Employer has written policy
- Employee is not a "control employee"

EMPLOYER PROVIDED TRANSPORTATION

Commuting valuation rule

\$3.00/day – \$1.50 each way

EMPLOYER PROVIDED TRANSPORTATION

Lease valuation rule

Three Step Process

- Determine FMV of the vehicle
- Establish Lease Value
- Allocate Lease Value between personal and business

Still need to adequately substantiate mileage

EMPLOYER PROVIDED TRANSPORTATION

SUMMARY

Importance of up to date policies

One of the highest areas of IRS audits –
Executive compensation

Expense Reimbursements

- IRS is cracking down on non-accountable plans to minimize the "tax gap".
- Expense reimbursements made under accountable plans are excluded from the income of an employee or director.
 - Reimbursement of actual expense or payments based on IRS established rates (e.g. per diems and mileage rates)
 - Expenses are substantiated as to amount and business purpose

Expense Reimbursements

- Credit card expenses and personal use of company credit cards.
 - Legitimate business use of company credit cards still need to be substantiated with receipt
 - Personal use needs to be reimbursed by the employee

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

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%

SUPPLEMENTAL PAY

- Update policies
- Keep file of employee choices

Reconciling Payroll

- SSA ties W2/W3 to 941's

Line 2 of four quarters of 941's must equal
Box 1 of W2's/W3's

Line 5a/5c of 941's to boxes 3/5 of W2's

- IRS ties state unemployment TWC reports
to 940's (940 Line 3 = 4 qtrs of Box 13)

No exemptions for TWC – total gross wages
401(k), Cafeteria

	Gross Wages	FICA Wages	FICA W/H	FIT W/H
Per W3	106,563.29	109,080.44	8,344.66	8,889.00
Retirement Plan	2,517.15			
Total Gross	109,080.44			
<u>Per 941 Quarterly Reports</u>				
	Gross Wages	FICA Wages	FICA/ Medicare	FIT W/H
1st Quarter	24,486.54	25,097.92	3,839.98	1,885.00
2nd Quarter	28,103.37	28,776.00	4,402.72	2,363.00
3rd Quarter	27,170.38	27,791.90	4,252.17	2,366.00
4th Quarter	26,803.00	27,414.62	4,194.43	2,275.00
Total Reportable	106,563.29	109,080.44	16,689.30 2	8,889.00
Simple Plan	2,517.15		8,344.65 a	
Total Gross	109,080.44			
<u>Per TWC Quarterly Reports</u>				
	Gross Wages	Taxable Wages	Tax Paid	
1st Quarter	25,097.92	25,097.92	60.24	
2nd Quarter	28,776.31	21,619.61	51.89	
3rd Quarter	27,791.90	4,240.41	10.18	
4th Quarter	27,414.31	5,853.41	14.05	
Total TWC	109,080.44	56,811.35	136.36 b	
<u>FUTA Liability</u>				
	Gross Wages	Taxable Wages	Tax Due	
1st Quarter	25,097.92	25,097.92	200.78	
2nd Quarter	28,776.31	11,619.61	92.96	
3rd Quarter	27,791.90	4,240.41	33.92	
4th Quarter	27,414.31	4,555.45	36.44	
Total FUTA	109,080.44	45,513.39	364.10 c	

Contact Information

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