

Year-End Reporting for C Corporations and LLC's

As the end of the year approaches, it is the time to prepare for the annual Internal Revenue Service information reporting. The following is a brief summary of the requirements, as well as other pertinent tax information. Please be advised that these are general requirements only, and not all items may be applicable to your organization.

Payroll Reporting

- Personal Use of Company Auto

You must include in your employees' pay the value of fringe benefits you provide unless the benefits are specifically excluded from income by law or are paid for by the employees. The value of these includable fringe benefits is generally subject to Social Security and Medicare Tax (FICA), federal and state unemployment taxes (FUTA and SUTA), and income tax withholdings. If you provide automobiles to your employees for use in your trade or business and the employees also incur some personal use of the vehicle (including commuting), the value of the personal use is considered a taxable fringe benefit and generally should be included as gross pay in their W-2 earnings. For an example, please see the enclosed Form W-2.

The Company must withhold taxes either quarterly, semiannually or on any other pay period basis, but not less often than annually. The employer can elect not to withhold income taxes on the value of personal use of a vehicle included in an employee's income if:

- The employer gives the employee advance written notice that this election will be made; and
- The employer includes the taxable amount of the benefit in the employee's income reported on Form W-2.

The election only applies to federal and state withholdings, **not FICA**. The employer must provide the advance notice to the employee by the later of January 31 of the year for which the election is to apply or within 30 days after the employer first provides a vehicle to the employee.

- Employers and other payers that withheld Maine income tax in 2009 must file form W-3ME. Generally, the total Maine income tax withheld, as shown on form W-3ME, should equal the total reported to the Maine Revenue Services for 2009 on the quarterly returns and should also agree to the information reported on all information returns furnished to payees (Forms W-2 and/or 1099's).

The treatment above does not apply to partners or LLC members. Fringe benefits provided to partners and members are treated for tax purposes as guaranteed payments.

Because partners and LLC members are not employees, they should not have any FICA or federal and state taxes withheld from their draw, nor should any payments to them be reported on a Form W-2.

- Personal Use of Company Cell Phone

An employer can exclude the value of an employee's use of a cell phone from the employee's income if it has some method of requiring the employee to keep records that distinguish business from personal phone charges. The employer must include the value of any personal usage in the employee's wages. Personal use includes individual personal calls, as well as a prorata share of monthly service charges. IRS regulations require the employee to keep a record of each call and its business purpose. If the employee does not use the cell phone to make personal calls or has only minimal personal usage, the business use of the phone is not taxable to the employee. However, employers should verify that any personal use is minimal by reviewing appropriate documentation on a regular basis.

Other Reporting Requirements

- **Information Returns** -One of the most commonly filed information returns is Form 1099-MISC, Statement for Recipients of Miscellaneous Income. Nonemployee compensation, reported on the Form 1099-MISC, includes fees, commissions, prizes and awards for services rendered, or other forms of compensation for services rendered for your trade or business by an individual who is not your employee. **This form is not to be used to report amounts paid to employees, such as wages, travel or auto allowance or Christmas bonuses. These items must be reported on Form W-2.**

A payment is generally reportable as nonemployee compensation if the following four conditions are met:

- 1) You made the payment to someone who is not your employee.
- 2) You made the payment for services received in the course of your trade or business (including government agencies and nonprofit organizations).
- 3) You made the payment to an individual or partnership, estate, trust, or in some cases, a corporation.
- 4) You made payments of at least \$600 to the payee during the calendar year.

The exemption for reporting payments to corporations does not apply to payments for legal services. Attorneys' fees of \$600 or more paid in the course of your trade or business are generally reportable in Box 7 (certain payments to attorneys are reportable in Box 14 – for example, paying a claimant's attorney to settle a Company claim).

Rent, royalties, prizes and awards and fishing boat proceeds must be reported on Form 1099-MISC. Also, medical and health care payments made directly to health care providers must be reported on Form 1099-MISC whether or not the payer is incorporated. However, payments made under a flexible spending arrangement or a health reimbursement arrangement which is treated as employer-provided coverage under an accident or health plan are exempt from the reporting requirements.

There are information reporting forms used for other specific purposes. For example, interest payments to non-corporate payees are reported on Form 1099-INT.

We strongly suggest you carefully review your payments made during the year to ensure that you are properly filing information returns. Penalties for failure to file necessary information returns range from at least \$15 to \$100 per information return, depending on the situation. Also, penalties may be imposed for late filing of Form 1099 or filings with incorrect or missing Taxpayer Identification Numbers (TIN). It is important that you obtain a correct TIN from each payee as soon as it becomes apparent that a Form 1099 will be required. Form W-9, Request for Taxpayer Identification Number and Certification, may be used for this purpose.

You are required to include a telephone number of a person to contact in the address section of Form 1099. This number must provide direct access to an individual who can answer questions about the statement.

The due date for furnishing statements to recipients has been changed to February 15 for statements due after 2008 if substitute payments are being reported in Box 8 or gross proceeds paid to an attorney are being reported in Box 14.

Payments made after 2008 to former employees while they are on active duty for more than 30 days in the Armed Forces or other uniformed services are not reported on Form 1099-MISC. Report those payments on Form W-2 instead. But also see the instructions for Box 3.

Death benefits from nonqualified deferred compensation plans paid to the estate or beneficiary of a deceased employee are now reported on Form 1099-MISC instead of Form 1099-R. Continue reporting death benefit payments from qualified plans on Form 1099-R.

Payments made to individuals in medical research studies are reported in Box 3. See the instructions for Box 3.

- **Sales and Use Tax** - Remember your Maine sales and use tax requirements as they pertain to purchases of equipment, computer software upgrades, and supplies. You are liable for Maine use tax if you purchase any item out of the state (to the extent sales taxes were not paid to that state), over the internet, or if any in-state vendor does not collect sales tax. Equipment leases with out-of-state lessors should be investigated as the lease may specify that you are liable for sales and use taxes.

Other Pertinent Information

- The standard mileage rate for 2009 for the cost of operating a car is 55 cents per mile.
- Self-employed taxpayers who use no more than four vehicles for business purposes may use the standard mileage rate for all of them.
- The Social Security wage base is \$106,800 for 2009 and 2010.
- Meals, Entertainment and Travel.

Generally, the deduction for expenses for food and beverages (meals) and for other entertainment expenses is limited to 50% of the cost. An expense for meals and entertainment is not deductible unless you can establish that it was directly related to the active conduct of a trade or business, with business discussed during, directly before or directly after the meal or

event. You (the taxpayer) or an employee must be present. Meals consumed while on business travel are automatically considered to be business related.

An exception to the 50% limitation applies to meals and recreational expenditures incurred at employee functions. These expenditures are generally fully deductible.

The receipt threshold for travel (excluding lodging), meals, and gifts is \$75 per expenditure. However, the business connection of the expense must still be substantiated. Lodging and any expenditures of the above nature that exceed \$75 require receipts.

Please contact your BDMP tax advisor if you have any questions or need assistance with any of the above requirements.

In accordance with IRS rules, we hereby advise you that any tax advice contained in this correspondence or attachments is not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer by the Internal Revenue Service.

'C' CORPORATION

22222		a Employee's social security number 123-45-1120		OMB No. 1545-0008	
b Employer identification number (EIN) 99-9999999			1 Wages, tips, other compensation 145000.00		2 Federal income tax withheld 25000.00
c Employer's name, address, and ZIP code C CORPORATION SAMPLE 1120 CORPORATE DRIVE BANGOR ME 04401			3 Social security wages 106800.00		4 Social security tax withheld 6622.00
			5 Medicare wages and tips 145000.00		6 Medicare tax withheld 2102.50
			7 Social security tips		8 Allocated tips
d Control number			9 Advance EIC payment		10 Dependent care benefits
e Employee's first name and initial JOHN S		Last name DOE	Suff. JR	11 Nonqualified plans	
1120 LABOR LANE BANGOR ME 04401			13 Statutory employee <input type="checkbox"/>	Retirement plan <input type="checkbox"/>	Third-party sick pay <input type="checkbox"/>
			14 Other AUTO USE 5000		12a
					12b
f Employee's address and ZIP code					12c
					12d
15 State ME	Employer's state ID number	16 State wages, tips, etc. 145000.00	17 State income tax 12000.00	18 Local wages, tips, etc.	19 Local income tax
					20 Locality name

Form **W-2 Wage and Tax Statement**
Copy 1—For State, City, or Local Tax Department

2009

Department of the Treasury—Internal Revenue Service

EXAMPLE

WAGES PAID IN 2009	\$140,000
PERSONAL USE OF COMPANY AUTO	\$5,000

SOCIAL SECURITY WAGE LIMITATIONS	\$106,800
MEDICARE WAGES	NO LIMIT FOR 2009