

2009 YEAR-END TAX COMPLIANCE FOR BUSINESSES

STATE ISSUES

Rhode Island

Most companies will be required to remit taxes on line as of January 1, 2010.

Pass-Through Entities such as "S" corporations, general partnerships, limited partnerships, limited liability partnerships, trust or limited liability companies that are not taxed as corporations for federal tax purposes may be required to withhold state taxes from nonresident shareholders/partners.

Secretary of State Annual reports are due by March 1st for Corporations. LLC's are due November 1st. These may be prepared on line at www.state.ri.us.

Massachusetts

The State has gone electronic, requiring most companies to register on-line.

Massachusetts also requires all corporations to use electronic means to request extensions and make the accompanying extension payments and even file most required State tax returns electronically.

Register now at <https://wfb.dor.state.ma.us/webfile>

Tax Assessor's Annual Return

2010 Tax Assessor returns must be filed with your city or town by January 31, 2010. An extension may be granted to March 15, 2010. **If you would like us to prepare your Assessor return, please notify us before January 15, 2010.**



TALK TO US ABOUT YOUR BUSINESS PAYROLL NEEDS

Streamline your payroll with our web-based, hassle-free payroll system. Direct deposit and electronic filing included. Call Neil or Cynthia for more information.

EMPLOYEE OR INDEPENDENT CONTRACTOR?

Both state and federal tax authorities are tightening rules for distinguishing between employees and independent contractors.

An oral or written document designating a worker as an independent contractor is not sufficient, **if the actual conditions of work indicate that the "contractor" is doing employee work.** If a worker classified as an independent contractor, is later determined to be an employee, the employer can be held responsible for the worker's employment taxes.

Massachusetts now presumes that any worker is an employee, unless the employer provides a written contract or job description establishing that the worker is free from the employer's control and customarily employed in an independent trade.

Some key factors the IRS and other tax authorities use in determining a worker's status:

- ✓ Does the employer or the worker control how the worker does his job?
- ✓ Does the employer or the worker provide the supplies, raw material and equipment?
- ✓ Does the employer or the worker determine when and how the worker is paid?
- ✓ Does the worker work mainly or exclusively for the employer, or for many clients or companies?
- ✓ Is the work integral to the employer's business, or is it a service that is outside the employer's normal business operations?
- ✓ Does the worker have an independent business structure, and does he have the opportunity to make a profit or loss?

The IRS has a list of 20 determining factors that it uses to help determine employee/contractor status. The list can be found on the "Tax Tools" page of our web site, www.fradincpa.com.

COMMON COMPLIANCE ISSUES

W-4's

The IRS requires all companies to have employees file new W-4 forms for 2010. This is the form for declaring the number of dependents claimed on the 1040. You may obtain the forms by downloading them from the IRS website at www.irs.gov, or by contacting us.

1099's

If you are required to provide 2009 Forms 1099 to subcontractors and others, such as attorneys and accountants, your 1099 recipients must receive the form by January 31, 2010.

If you are not sure whether you should provide a 1099 to a particular individual or company, please contact us and we will help you make that determination.

EFTPS (Electronic Federal Tax Payment System)

If a taxpayer's employment tax deposits exceed \$200,000 on an annual basis, the taxpayer must begin EFTPS deposits, and continue to use EFTPS, even if your annual tax deposits fall below \$200,000 in subsequent years. EFTPS elected on Form 9779 or 9783. The company should have submitted its completed Form 9779 or 9783 at least 10 weeks in advance of the first FTD (Federal Tax Deposit) or FTP (Federal Tax Payment) due date for which it intends to use EFTPS.

You can obtain enrollment forms by calling EFTPS Customer Service at 1-800-945-8400, on line at www.eftps.gov, or by calling our office.

If you have any questions about EFTPS, be sure to give us a call.

S CORP SHAREHOLDER BASIS

At the end of the year, an S corporation shareholder must have income tax basis to offset any tax losses. If no tax basis exists, then losses are not deductible this year, but could be used in future years. **Calculation of income tax basis is complex, so if you expect a loss this year, please give us a call so we can help you to determine your tax basis.**

(continued in Column 2)

COMMON COMPLIANCE ISSUES

(Continued from Column 1)

HEALTH INSURANCE AND W-2's

For shareholders who own in excess of 2% of the stock in "S" corporations, amounts paid by the corporation for your health insurance premiums must be included on Form W-2 as gross wages, and are subject to federal and state income taxes. These amounts may also be subject to Social Security and Medicare taxes.

This rule applies if the health insurance plan is in the name of the corporation, not the shareholder.

INTEREST ON LOANS

Interest on shareholder loan accounts (either due to or due from) should be computed for loan amounts over \$10,000. If you want us to compute the interest for you, please send us an analysis of the account.

PAYROLL TAXES FOR FAMILY MEMBERS

If you employ a family member in your business, be aware of the payroll tax withholding requirements for that family member. In general, children under 18 who work for a parent are not subject to Social Security and Medicare taxes, but may be subject to income tax withholding. One spouse employed by another, or a parent working for a child, are generally subject to all the usual payroll taxes.

However, these rules can vary under specific circumstances. **If you employ any family member, please call us so that we can make sure you are in compliance with payroll tax requirements.**

AUTOMOBILE USE

Personal use of company automobiles is subject to employment taxes (FICA, Medicare, etc.) and must be included in the employee's W-2. If you provide vehicles for employee use, you will need to determine how much of the value of each vehicle should be included on the employees' Form W-2 as gross wages. The 2009 Personal Auto Use Calculation Form is now available on the Tax Tools page of our web site, www.fradincpa.com. (If you do not have internet access, please contact us and we will mail or fax a copy). If you complete this form for each employee and return it to us quickly, we will compute the personal value for each vehicle.

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AUTOMOBILE USE (continued from Page 2)

If you wish to make the computations yourself, **you can also find the "Annual Lease Value Table" on our web site, www.fradincpa.com**, under "Tax Tools". Lease values must be used for the first four years the vehicle is in use. If the vehicle is still in use at the beginning of the fifth year, a new fair market value may be used for the next four years (usually the "Blue Book Value").

The formula using lease values must be used for all persons owning more than 1% of stock of the corporation, or when the automobile's fair market value exceeds \$15,100 for cars first made available to an employee for personal use in 2009.

Other employees may use alternative methods such as the **standard mileage rate** for personal use for 2009; or \$1.50 per commute (each way) if the vehicle is used only to commute to and from work for safety reasons. You are required to maintain an automobile log for each vehicle. Estimates are not acceptable and will result in complete disallowance of the deduction.

Standard Business Mileage Rates:

2009 - 55¢ per mile

2010 - 50¢ per mile

**TRAVEL AND ENTERTAINMENT**

We recommend that you **separate deductible and non-deductible allowances in your corporate Chart of Accounts**. A checklist of business meal, travel and entertainment items which are non-deductible, partially or fully deductible is available on our web site at www.fradincpa.com, under "Tax Tools".

You are required to maintain records to prove that the primary purpose of your trip was business, not pleasure, along with all receipts. Keep a log or calendar of how you spent each day of the trip, as well as registrations and event schedules for seminars and conventions. Acknowledgements from the organizers that you actually attended their event will also help support your business deduction.

If you have any question about whether a particular expense is deductible, please call us so we can help you make the determination. *

REIMBURSED EMPLOYEE BUSINESS EXPENSES AND ALLOWANCES

Employee expenses can be reimbursed under two types of plans: accountable and non accountable. An accountable plan is a reimbursement or other expense allowance arrangement that satisfies three basic requirements: a business connection; substantiation; and return of excess amounts. A non accountable plan does not need to meet these requirements. Non accountable reimbursements are reported as wages on Form W-2 and are subject to withholding. The recipient has to list the reimbursements and itemize the expenditures on his Form 1040.

The benefit of having an accountable plan is that reimbursed expenses are not considered income to the employee, so they are not taxed as wages and not subject to withholding.

The business expenses covered by an accountable plan must meet the requirements for deduction as business expenses; and must be paid or incurred by the employee in connection with the performance of services as an employee. Allowances under the plan may include per diem allowances, allowances for meals and incidental expenses, and mileage allowances.

Except for certain expenses such as traveling expenses, gifts and recreation or entertainment expenses, substantiation is adequate if the employee provides the employer sufficient information to identify the specific nature of each expense and to show that the expense is attributable to the employer's business activities.

If you need more information about accountable vs. non-accountable plans, please call us.

DEPRECIATION

"Section 179 Election" allows you to expense otherwise depreciable business property in the year purchased. You may elect to expense up to \$250,000 (Federal) of equipment costs in 2009. Bonus depreciation for 2009 is 50% of the cost of certain newly acquired assets.

Depreciation of leasehold improvements and restaurant equipment has been shortened to 15 years from 39 years; this change expires in 2009.

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BUSINESS EXPENSES AND ALLOWANCES
AUTOMOBILE USE • TRAVEL AND ENTERTAINMENT
CHANGES TO FEDERAL AND STATE REGULATIONS
EMPLOYEE VS INDEPENDENT CONTRACTOR**

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E-FILE IN 2009

For 2009, all Federal and Massachusetts business tax returns will be filed electronically. E-filing saves time, paper and money, brings a quicker return on refunds, and protects you from filing errors that may result in tax penalties or interest.



If you have any questions about your year end tax planning, don't hesitate to call. We will be happy to meet with you to discuss tax planning and business strategies.

This publication is not intended to be financial or tax advice, but is intended only to inform the reader of recent developments. If you require financial or tax advice on a particular matter, please contact us directly at (401) 738-2900, or email info@fradincpa.com

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