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I N S I D E

- IRS Changes Way it Treats Cell Phones
- What Employers Need to Know About Claiming the Small Business Health Care Tax Credit
- Ensuring your Business Survives a Disaster
- Selling Receivables' Taxability Settled

IRS Creates Settlement Program for Worker Classification Issues

The Internal Revenue Service launched a new program recently that will enable many employers to resolve past worker classification issues and achieve certainty under the tax law at a low cost by voluntarily reclassifying their workers.

This new program will allow employers the opportunity to get into compliance by making a minimal payment covering past payroll tax obligations rather than waiting for an IRS audit. This is part of a larger "Fresh Start" initiative at the IRS to help taxpayers and businesses address their tax responsibilities and is aimed at closing the tax gap.

The new Voluntary Classification Settlement Program (VCSP) is designed to increase tax compliance and reduce burden for employers by providing greater certainty for employers, workers and the government. Under the program, eligible employers can obtain substantial relief from federal payroll taxes they may have owed for the past if they prospectively treat workers as employees. The VCSP is available to many businesses, tax-exempt organizations and government entities that currently erroneously treat their workers or a class or group of workers as nonemployees or independent contractors and now want to correctly treat these workers as employees.

To be eligible, an employer must:

- consistently have treated the workers in the past as nonemployees;
- have filed all required Forms 1099 for the workers for the previous three years;
- not currently be under audit by the IRS; and
- not currently be under audit by the Department of Labor or a state agency concerning the classification of these workers.

Interested employers should apply for the program at least 60 days before they want to begin treating the workers as employees.

(Continued on page 4)



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IRS Changes Way it Treats Cell Phones

For many businesses, employer-provided cell phones were one of the more onerous tax-related expenses to track. However, much of that will change for business thanks to the new treatment of cell phones recently announced by the IRS.

Previously, because cell phones were considered listed property, employers and employees would have to keep detailed records regarding the business and personal use of any cell phones distributed by the company. Any personal use of the cell phone was taxable as income to the employee. Many individuals actually carried two cell phones to avoid this burdensome recordkeeping requirement.



However, the IRS has reclassified cell phones as per a recent notice. Cell phones are now considered an excludable fringe benefit, meaning that when an employer provides a cell phone to an employee for noncompensatory business reasons, both the business and personal use of the phone is untaxable in most

cases. This frees the employer from the recordkeeping requirements and means employees can stop carrying two phones.

The IRS issued additional guidance for small business owners who typically provide a cash allowance or reimbursement program for business use of personal cell phones. Provided any reimbursements are not a substitute for an employee's general wages or salary, the reimbursements for business use of personal phones are generally untaxable.

The professionals in our office can assist you in determining which benefits you give your employees are taxable and which are not. Call us today.

What Employers Need to Know About Claiming the Small Business Health Care Tax Credit

Many small employers that pay at least half of the premiums for employee health insurance coverage under a qualifying arrangement may be eligible for the small business health care tax credit. This credit can enable small businesses and small tax-exempt organizations to offer health insurance coverage for the first time. It also helps those already offering health insurance coverage to maintain the coverage they already have. The credit is specifically targeted to help small businesses and tax-exempt organizations that primarily employ 25 or fewer workers with average income of \$50,000 or less.

Businesses that could not use the credit in 2010 may be eligible to claim it now or in the future.

Some businesses that already locked into health insurance plan structures and contributions for 2010 may not have had the opportunity to make any needed adjustments to qualify for the credit for 2010. These businesses may be eligible to claim the credit on 2011 returns or in years beyond. Small employers can claim the credit for 2011 through 2013 and for two additional years beginning in 2014.

For tax years 2011 to 2013, the maximum credit for eligible small business employers is 35 percent of premiums paid; and for eligible tax-exempt employers, the maximum credit is 25 percent of premiums paid. Beginning in 2014, the maximum tax credit will go up to 50 percent of premiums paid

by eligible small business employers and 35 percent of premiums paid by eligible tax-exempt organizations.

Additional information about eligibility requirements and calculating the credit can be determined by contacting one of the professionals in our office.



Ensuring your Business Survives a Disaster

Fires, floods, hurricanes, earthquakes and tornadoes can devastate the areas that they affect – both physically and economically. Disasters such as these can cripple – and possibly eliminate – your business if you are not properly prepared to deal with the potential results of such disasters. Developing a comprehensive, accurate and well-thought-out plan can ensure that your business will survive the most heinous natural disaster. While the benefits of planning for natural disasters are clear, a concerted effort must be taken in order to guarantee the plan's success. The following points can help your business survive a disaster:

- Get informed about the hazards and emergencies and learn what to do
- Develop an emergency plan
- Learn where to seek shelter from all types of hazards
- Back up your computer data to an offsite location regularly
- Decide how you will communicate with employees, customers and others
- Use cell phones, walkie-talkies or other devices that do not rely on electricity as a backup to your telecommunications system
- Collect and assemble a disaster supplies kit; include a portable generator
- Identify the community warning systems and evacuation routes
- Include required information from your community and school plans
- Practice and maintain your plan

Backing up vital records, especially tax and financial data, is a

crucial step that must be thought about in detail before a plan is in place. Consulting your financial advisor is a good first step to ensuring that you are storing and maintaining your records safely



and correctly. In addition, keeping electronic copies of these documents is a great way to safeguard them as paper is destroyed easily during many disasters. Remember that when choosing where to store these records, proximity to your home or offices should not be a primary concern as many locations near your home or offices may be difficult or impossible to reach following a disaster.

The IRS also suggests that documenting your valuable items – such as office equipment – is a vital step in any disaster preparedness plan. Disaster loss workbooks for both individuals (Publication 584) and businesses (Publication 584-B) that will help you document your valuables room by room, are published by the IRS and available from us or the Service at www.irs.gov.

We can assist you after a disaster by providing you with a copy of your tax returns and other tax-related documents or by making

you aware of certain tax provisions of which individuals and business may be able to take advantage. This can improve your cash flow situation following a disaster.

We also suggest that you develop IT solutions that will help you overcome travel restrictions and other anomalies that will make it difficult for employees to get to work following a disaster. The ability to telecommute, for instance, could be invaluable to your business if it affords key employees the opportunity to work from home when the office is inaccessible.

In addition, be sure that you have purchased enough – and the correct types of – insurance to protect your business's equipment and property for any disaster that may affect your area. If you do not have business income interruption or extra expense insurance, it may be wise to consider purchasing these. Also, be sure to know what your insurance will and will not cover – particularly as it relates to disasters. Consult your insurance agent to be absolutely clear about the details of your insurance plan or contact one of our professionals in our office who can help you review your policy and needs.

Disaster preparedness plans should be reviewed annually. Drills and training sessions should be conducted periodically, as well, in an effort to keep your preparedness at its peak level. Consulting a financial advisor in this capacity is a good idea as business situations – and tax laws – change regularly.



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IRS Creates Settlement

(Continued from page 1)

Employers accepted into the program will pay an amount effectively equaling just over one percent of the wages paid to the reclassified workers for the past year. No interest or penalties will

be due, and the employers will not be audited on payroll taxes related to these workers for prior years. Participating employers will, for the first three years under the program, be subject to a special six-year statute of limitations, rather than the usual three years

that generally applies to payroll taxes.

Please contact one of our professionals for more information. We can conduct a mock IRS audit that can help you uncover worker classification and other issues.

Selling Receivables' Taxability Settled

When your company sells its receivables to a third party, it can raise some interesting tax questions. Fortunately, one of those questions was answered recently. Prior to the IRS' ruling last year, there was a question as to how

the income that a company earned as a result of selling a portion of its receivables to a third party was to be classified for tax purposes. In a private letter ruling, the IRS has said that income earned from selling receivables is

not "Subpart F" income. So, while you are still taxed on the income, its classification means that you will not have to pay the tax up front and can treat it like normal income.

A newsletter dedicated to increasing your profitability

Profit Margins has been created to serve your needs. We are available to answer any questions you have regarding your business or personal affairs. If there are topics you would like to see covered in **Profit Margins**, please let us know.

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