

MANNON KAPLAN, CPA
GEORGE NADEL RIVIN, CPA
EDWIN KANEMARU, CPA
KENNETH R. HOLMER, CPA
DOUGLAS S. WAITE, CPA
CHARLES SCHNAID, CPA
DONALD G. GARRETT, CPA
CATHERINE C. GARDNER, CPA
JEFFREY L. GOSS, CPA
RICHARD DEFONZO, JD
JOANNA BOLSKY, CPA
RONALD D. CHANDLER, CPA
MICHAEL G. KAPLAN, CPA
MICHAEL J. QUACKENBUSH, CPA
EDMOND AVANESS, CPA
CRANE CURRAN, CPA
BRIAN J. HARRIS, CPA
GREGORY E. KLEIN, CPA
FRED WOLINSKY, CPA
LINDA BECKER, MBA

STANLEY L. MILLER, CPA (1921-1995)
PAUL ARASE, CPA (RETIRED)



Miller, Kaplan, Arase & Co., LLP
CERTIFIED PUBLIC ACCOUNTANTS

SINCE 1941

4123 LANKERSHIM BOULEVARD
NORTH HOLLYWOOD, CALIFORNIA 91602-2828
(818) 769-2010
FAX (818) 769-3100

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December 3, 2010

Re: 2011 Accountants' Memorandum

Happy Holidays from Miller, Kaplan, Arase & Co., LLP!

The 2010 year saw passage of three main new tax bills at the Federal level: the **Hiring Incentives to Restore Employment Act** (HIRE Act), the **Patient Protection and Affordable Care Act** (Health Care Act) and the **Small Business Lending Funding Act**, which included a variety of tax provisions.

Although our primary focus here is on payroll tax matters and information reporting, we have a short summary of each bill contained herewith. We realize (especially as a result of the recent election) that there is a great deal of uncertainty as to whether some of these provisions related to the Health Care Act will truly become effective, but we can only address the law as it stands. Of special note is that penalties for late filing of or non compliance with information return filing have been increased substantially.

At the California state level, in October the legislature passed a budget plan 100 days late. It calls for \$7.5 billion in spending cuts to social programs and a delay in implementing corporate tax breaks. Notably in November the state's voters approved an initiative to remove the two-thirds vote requirement for passage of future budgets.

As in past years, we want to emphasize that if the IRS or the state has notified your business that taxes must be paid electronically, you must do so or incur substantial penalties. **Additionally in 2011 California will be enforcing a requirement for certain high income individuals that they must pay electronically as well.**

If you are contemplating a switch of your regular IRA to a Roth, we recommend that you consider doing so before year end. The tax on 2010 conversions can be deferred and spread over two years, with 50% of the conversion income taxed in 2011 and the balance in 2012.

Finally, at press time, the President and Republican leaders in Congress had struck a deal on a comprehensive tax package that would, among other things, reduce the employee share of payroll taxes from 6.2% to 4.2% for the 2011 year. This memorandum was produced before then, so we will have to watch the news to see if this is passed into law.

We look forward to serving you in 2011.

Miller, Kaplan, Arase & Co., LLP

MKA:sb

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I. EARNINGS REPORTS DUE IN 2011

A. Payroll Taxes1. IRS Form 941 - Employer's Quarterly Federal Tax Return

| | <u>2010 and 2011</u> |
|---|----------------------|
| <u>FICA:</u> | |
| <u>Social Security Wage Limit</u> | \$106,800.00 |
| Withholding Tax Rate ("OASDI" Portion Only) | 6.2% |
| Maximum Withholding | \$6,621.60 |
| Employer Matching Tax Rate ("OASDI" Only) | 6.2% |
| Maximum Employer Matching | \$6,621.60 |
| <u>Medicare Wage Limit</u> | Unlimited |
| Tax Rate ("HI" Portion Only) | 1.45% |
| Maximum Withholding | Unlimited |
| Employer Matching Tax Rate ("HI" Only) | 1.45% |
| Maximum Employer Matching | Unlimited |

In 2011, Form 941 is due as follows:

| <u>Quarter Ending Date</u> | <u>Form 941 Due Date</u> |
|----------------------------|--------------------------|
| December 31, 2010 | January 31, 2011 |
| March 31, 2011 | April 30, 2011 |
| June 30, 2011 | July 31, 2011 |
| September 30, 2011 | October 31, 2011 |

Note: The deposit procedure will change effective January 1, 2011. The Form 8109 for federal tax deposit coupons has been eliminated.

2. IRS Form 940 - Employer's Annual Federal Unemployment Tax Return

| | <u>2010 and 2011</u> |
|---|----------------------|
| Federal Unemployment Tax - On Annual | |
| Wage Limit of | \$7,000.00 |
| Federal Unemployment Tax Rate - Employer Only | 6.2% * |
| Allowable California Credit | <u>5.4%</u> |
| Net Federal Tax Rate | <u>0.8%</u> |

File the Form 940 for the year ended December 31, 2010 by no later than February 1, 2011. Note: Deposits for 2010 were required for any quarter when the cumulative liability for the quarter was \$500.00 or more. ***The 2% surtax may expire at the end of June 2011 unless extended, leaving the rate at 6%.**

Special rules apply to family members working for another family member. In general, family members are exempt from federal unemployment insurance and, those under 18, from social security taxes. Federal income taxes are, however, required to be withheld. These special rules do not apply to family owned partnerships or corporations.

For California purposes, family employees are generally exempt from Unemployment Insurance (UI), Employment Training Tax (ETT), and State Disability Insurance (SDI). However, they are subject to personal income tax withholding.

I. EARNINGS REPORTS DUE IN 2011 (Continued)

A. Payroll Taxes (Continued)

3. California Forms DE 6 and DE 7

For 2010, Employers must complete the fourth quarter 2010 Form DE 6, **Quarterly Wage Report**, and the 2010, Form DE 7, **Annual Reconciliation Return**. Both of these forms are due no later than February 1, 2011. Employers must file a DE 7 to reconcile the four quarterly Forms DE 6 and pay any unpaid taxes or request a refund of overpaid taxes for the year. **Starting with the first quarter of 2011 the state has new Forms DE 9 and DE 9C to replace DE 6 and is doing away with the DE 7. See the tax changes section.**

Additionally the new Forms DE 9 are due in 2011 as follows:

| <u>Quarter Ending Date</u> | <u>Form DE 9 Due Date</u> |
|--------------------------------|-------------------------------|
| March 31, 2011 | May 2, 2011 |
| June 30, 2011 | August 1, 2011 |
| September 30, 2011 | October 31, 2011 |

The term "Subject Wages" means wages subject to employment taxes without consideration of the \$7,000 limitation. The term "PIT Wages" means wages subject to California personal income tax. When completing the Forms DE 6, enter each employee's subject wages in Box G and PIT Wages in Box H.

When preparing Form DE 7, you should enter the total subject wages for all employees on Line C. The amount on Line C should equal the total wages reported on the four quarterly Forms DE 6. Enter in Box D2 the total taxable wages subject to Unemployment Insurance (SUI) and Employment Training Tax (ETT). Do not enter more than \$7,000 for each employee. Enter in Box F2 the total taxable wages subject to disability insurance. Do not enter more than \$93,316 for each employee for the 2010 year.

Multiply the SUI, ETT, and Disability Insurance (SDI) rates by the applicable total taxable wages subject to each type of tax. List the total personal income tax withheld for all employees on Line G. Subtract payments made with Form DE 88, Report of Contributions, during the year. If there is a balance due, send the payment with Form DE 88.

A summary table is as follows:

| | <u>2011 Applicable During 2011</u> | <u>2010 Applicable During 2010</u> |
|---|--|--|
| SUI Tax - Annual Wage Limit (Tax Rate Assigned to Employers Based on Experience) | \$ 7,000.00 * | \$ 7,000.00 * |
| ETT - Annual Wage Limit Tax Rate | \$ 7,000.00 0.1% | \$ 7,000.00 0.1% |
| SDI Tax - Annual Wage Limit Tax Rate | \$ 93,316.00 1.2% | \$ 93,316.00 1.1% |
| Maximum Amounts to be Withheld | \$ 1,119.79 | \$ 1,026.48 |

* See Form DE 2088, notice of contribution rates and statement of UI reserve account mailed to all employers in December. If you need rate information, call the EDD Contribution Rate Group at (916) 653-7795. Employers have 60 days from the date of notification to dispute their UI contribution rate. The General EDD Telephone Assistance Line is (888) 745-3886.

I. EARNINGS REPORTS DUE IN 2011 (Continued)

B. Wage and Tax Statement - 2010 Form W-2 (Give to Employees before February 1, 2011)

| | | | | | |
|--|----------------------------|--|-----------------------------------|--|---|
| 22222 | | a Employee's social security number | | OMB No. 1545-0008 | |
| b Employer identification number (EIN) | | | 1 Wages, tips, other compensation | | 2 Federal income tax withheld |
| c Employer's name, address, and ZIP code | | | 3 Social security wages | | 4 Social security tax withheld |
| | | | 5 Medicare wages and tips | | 6 Medicare tax withheld |
| | | | 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 | | Last name | Suff. | 11 Nonqualified plans | |
| f Employee's address and ZIP code | | 13 Statutory employee <input type="checkbox"/> | | Retirement plan <input type="checkbox"/> | Third-party sick pay <input type="checkbox"/> |
| | | 14 Other | | 12a | |
| | | | | 12b | |
| | | | | 12c | |
| | | | | 12d | |
| 15 State | Employer's state ID number | | 16 State wages, tips, etc. | 17 State income tax | 18 Local wages, tips, etc. |
| | | | | | 19 Local income tax |
| | | | | | 20 Locality name |

Form **W-2** Wage and Tax Statement

2010

Department of the Treasury - Internal Revenue Service

Copy 1 - For State, City, or Local Tax Department

Notes Per 2010 Form Instructions:

- Military differential pay** - Payments made after 2009 to former employees while they are on active duty for more than 30 days in the Armed Forces or other uniformed services are now treated as wages. Report these payments in box 1 of Form W-2.
- Nonqualified deferred compensation plans** - Section 409A, added by the American Jobs Creation Act of 2004, provides that all amounts deferred under a nonqualified deferred compensation (NODC) plan for all taxable years are includible in gross income unless certain requirements are satisfied.

Additional Note:

S Corporation Fringe Benefits - An S corporation treats taxable fringe benefits paid on behalf of its 2% shareholder-employees as additional compensation to them. The corporation deducts the additional compensation on page 1, line 7 ("Compensation of officers") or line 8 ("Salaries and wages") of its Form 1120S. The corporation reports the additional compensation to the shareholder-employees on Forms W-2. The additional compensation is subject to federal tax withholding and is generally subject to employment taxes (FICA and FUTA). However, payments made pursuant to a plan providing accident and health coverage are only subject to income tax withholding; they are not subject to any other employment taxes.

I. EARNINGS REPORTS DUE IN 2011 (Continued)

B. Wage and Tax Statement - 2010 Form W-2 (Continued)

Notes: (Continued)

- 3. **Qualified Transportation Fringe Benefits** - For 2010 up to \$230 per month of qualified parking and up to \$230 per month of the combined value of transit passes and transportation by commuter highway vehicle may be excluded from gross income. Report any excess over the exclusion amount as wages in boxes 1, 3 and 5 of the employee's 2010 Form W-2. Note: Employers may also exclude \$20 per month paid to employees who commute to work by bicycle. Currently there has been no decision to extend the benefit into 2011. Congress must act in this regard.
- 4. **Employer Provided Educational Assistance** - There is a personal income tax exclusion of up to \$5,250 for employees' educational assistance programs annually.
- 5. **Deceased Employee's Wages** - The IRS has special instructions for reporting wages if an employee dies during the year. Consult the instructions to 2010 Form W-2.
- 6. **Group-Term Life Insurance** - You must include in your employees wages subject to social security and Medicare taxes the cost of group-term life insurance that is more than the cost of \$50,000 of coverage, reduced by the amount the employee paid toward the insurance. Report it as wages in boxes 1, 3, and 5 of the employee's 2010 Form W-2. Also, show it in box 12 with code C.

Figure the monthly cost of the insurance to include in the employee's wages by multiplying the number of thousands of dollars of insurance coverage over \$50,000 (figured to the nearest 10th) by the cost shown in the following table. Use the employee's age on the last day of the tax year. You must prorate the cost from the table if less than a full month of coverage is involved.

COST PER \$1,000 OF PROTECTION FOR ONE MONTH

| Age | Cost |
|--------------------|--------|
| Under 25..... | \$.05 |
| 25 through 29..... | .06 |
| 30 through 34..... | .08 |
| 35 through 39..... | .09 |
| 40 through 44..... | .10 |
| 45 through 49..... | .15 |
| 50 through 54..... | .23 |
| 55 through 59..... | .43 |
| 60 through 64..... | .66 |
| 65 through 69..... | 1.27 |
| 70 and older..... | 2.06 |

You figure the total cost to include in the employee's wages by multiplying the monthly cost by the number of full months coverage at that cost. For example, for a 50-year old employee with \$500,000 of group-term coverage, the total cost to include is \$1,242, as follows:

$$\$450 \text{ (insurance coverage over } \$50,000 \text{ in thousands of dollars)} \times .23 \text{ (cost per table)} \times 12 \text{ months} = \underline{\$1,242}$$

7. Selected notes for particular boxes follow:

Box b - Provide the Federal employer identification number (FEIN) assigned by the IRS. Do not use a prior FEIN once a FEIN is changed.

Box d - Control Number: This is optional. Employers may use this box to identify Forms W-2.

I. EARNINGS REPORTS DUE IN 2011 (Continued)**B. Wage and Tax Statement - 2010 Form W-2 (Continued)****Notes: (Continued)**

Box 3 – Social Security Wages: Cannot exceed \$106,800 for 2010.

Box 4 – Social Security Tax Withheld: Cannot exceed \$6,621.60 for 2010.

Box 5 – Medicare wages and tips: Unlimited for 2010.

Box 6 – Medicare tax withheld: Unlimited for 2010.

Box 11 – Show total distributions to the employee from a non-qualified deferred compensation plan or a Sec. 457 plan during 2010, here and in Box 1 (but not if reported in Boxes 3 or 5). Also include in Box 11 amounts under a nonqualified plan or a Sec. 457 plan that became taxable during the year for social security and medicare tax purposes, but were for services performed in a prior year. Payments to beneficiaries of deceased employees are reportable on Form 1099-R.

Box 12 – Enter a code (A through Z) codes for items such as cost of group term life insurance over \$50,000 (Code C), elective deferrals to a section 401(k) arrangement (Code D), etc. Do not enter more than four items in box 12. If more than four items are needed, use a separate W-2.

Box 13 – Checkboxes. Mark all checkboxes that apply.

- **Statutory Employees.** Mark this checkbox for statutory employees whose earnings are subject to social security and Medicare taxes but not subject to Federal income tax withholding. There are workers who are independent contractors under the common-law rules but are treated by statute as employees. They are called statutory employees.
- **Retirement Plan.** Mark this checkbox if the employee was an active participant (for any part of the year) in any pension plan.
- **Third-party sick pay.** Mark this checkbox only if you are a third-party sick pay payer filing a Form W-2 for an insured's employee.

Box 14 – Other. The lease value of a vehicle provided to your employee and reported in box 1 must be reported here or in a separate statement to your employee. You may also use this box for any other information you want to give your employee.

Boxes 15 through 20 – For State information. Enter in Box 19 the amount of SDI actually withheld, and in Box 20 the letters "CASDI". The 2010 SDI maximum was \$1,026.48.

C. Transmittal Form Addresses**The Following Form is Due by March 1, 2011:****1. 2010 Form W-3 (Federal)**

IRS Publication 393, entitled, "2010 Federal Employment Tax Forms," which was mailed to employers in November 2010, contains 2010 Form W-3 and specific instructions for completing that form. If you are required to file 250 or more Forms W-2, you must file them electronically, unless the IRS granted you a waiver. Otherwise see the mailing addresses on the following page.

I. EARNINGS REPORTS DUE IN 2011 (Continued)**C. Transmittal Form Addresses (Continued)****1. 2010 Form W-3 (Federal) (Continued)**

File Copy A of Form W-2 with the entire first page of Form W-3 at the following address:

If Using United States Postal Service:

Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001
**(For certified mail use Zip
Code 18769-0002)**

For Other IRS Approved Private Delivery Services:

Social Security Administration
Data Operations Center
Attn: W-2 Process
1150 E. Mountain Dr.
Wilkes-Barre, PA 18702-7997

The Following Form is Due No Later than February 1, 2011:**2. 2010 Form DE 7 (California)**

File with the following address:

State of California
Employment Development Department
P.O. Box 826286
Sacramento, CA 94230-6286

D. Information Forms**1. IRS Form 1099 Series - U.S. Information Returns**

Generally, file for any individual, partnership or trust (non-corporate entity) to whom you paid rents, dividends, interests, commissions, fees, payments for services (not wages), etc. See the instructions to determine what type and amount of payments must be reported in the boxes and the correct type of Form 1099 to use.

Prepare in triplicate (no photocopies allowed); Copy A to be transmitted to IRS with Form 1096, a copy for the recipient and a copy for the employer's files. Give recipient their copy no later than February 1, 2011. Forms 1099 should be typed or machine printed, although for 2010 most Forms 1099 may now be furnished electronically to taxpayers with their consent. Please remember to include a telephone number below the address in the payer's section. A toll-free number has been implemented for IRS's Information Reporting Call Site. In response to requests from many employers, the new toll-free number is 866-455-7438.

2. IRS Form 1096 - Annual Summary and Transmittal U.S. Information Returns

Fill in name and address of payer. Indicate the number and type of Forms 1099 attached. Sign and mail to **Internal Revenue Service, Kansas City, Missouri 64999** (if company is located in California) before March 1, 2011. If not filed by the due date, significant penalties apply. If you file electronically, the due date is now March 31.

Filers and transmitters of information returns can obtain an extension of time to file by submitting a signed paper Form 8809, Request for Extension of Time to File Information Returns. The extensions are most often for a period of 30 days. Filers and transmitters may thereafter request an additional 30-day extension. The extensions apply only to filing with the government. The filer or transmitter must still provide statements to the recipients by the required due date.

If you are filing 250 or more returns of the same type, see IRS Publication 1220, Specifications for Filing Information Returns Electronically. The law requires such returns to be filed electronically.

Payees who file paper returns with the IRS need not send a paper copy to the California FTB; the IRS forwards the information to the FTB.

I. EARNINGS REPORTS DUE IN 2011 (Continued)

D. Information Forms (Continued)

3. Guide to Information Returns (If any date shown falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.)

| Form | Title | What to Report | Amounts to Report | Due Date | |
|-----------------------------------|---|---|--|--------------|---|
| | | | | To IRS | To Recipient (unless indicated otherwise) |
| 1042-S | Foreign Person's U.S. Source Income Subject to Withholding | Income such as interest, dividends, royalties, pensions and annuities, etc., and amounts withheld under Chapter 3. Also, distributions of effectively connected income by publicly traded partnerships or nominees. | See form instructions | March 15 | March 15 |
| 1098 | Mortgage Interest Statement | Mortgage interest (including points) and certain mortgage insurance premiums you received in the course of your trade or business from individuals and reimbursements of overpaid interest. | \$600 or more | February 28* | (To Payer/Borrower) January 31 |
| 1098-C | Contributions of Motor Vehicles, Boats, and Airplanes | Information regarding a donated motor vehicle, boat, or airplane. | Gross proceeds of more than \$500 | February 28* | (To Donor) 30 days from date of sale or contribution |
| 1098-E | Student Loan Interest Statement | Student loan interest received in the course of your trade or business. | \$600 or more | February 28* | January 31 |
| 1098-T | Tuition Statement | Qualified tuition and related expenses, reimbursements or refunds, and scholarships or grants (optional). | See instructions | February 28* | January 31 |
| 1099-A | Acquisition or Abandonment of Secured Property | Information about the acquisition or abandonment of property that is security for a debt for which you are the lender. | All amounts | February 28* | (To Borrower) January 31 |
| 1099-B | Proceeds From Broker and Barter Exchange Transactions | Sales or redemptions of securities, futures transactions, commodities, and barter exchange transactions. | All amounts | February 28* | February 15** |
| 1099-C | Cancellation of Debt | Cancellation of a debt owed to a financial institution, the Federal Government, a credit union, RTC, FDIC, NCUA, a military department, the U.S. Postal Service, the Postal Rate Commission, or any organization having a significant trade or business of lending money. | \$600 or more | February 28* | January 31 |
| 1099-CAP | Changes in Corporate Control and Capital Structure | Information about cash, stock, or other property from an acquisition of control or the substantial change in capital structure of a corporation. | Amounts of stock or property valued at \$100 million or more | February 28* | (To Shareholders) January 31 |
| 1099-DIV | Dividends and Distributions | Distributions, such as dividends, capital gain distributions, or nontaxable distributions, that were paid on stock and liquidation distributions. | \$10 or more, except \$600 or more for liquidations | February 28* | January 31** |
| 1099-G | Certain Government Payments | Unemployment compensation, state and local income tax refunds, agricultural payments, and taxable grants. | \$10 or more for refunds and unemployment | February 28* | January 31 |
| 1099-H | Health Coverage Tax Credit (HCTC) Advance Payments | Health insurance premiums paid on behalf of certain individuals. | All amounts | February 28* | January 31 |
| 1099-INT | Interest Income | Interest income. | \$10 or more (\$600 or more in some cases) | February 28* | January 31** |
| 1099-LTC | Long-Term Care and Accelerated Death Benefits | Payments under a long-term care insurance contract and accelerated death benefits paid under a life insurance contract or by a viatical settlement provider. | All amounts | February 28* | January 31 |
| 1099-MISC | Miscellaneous Income (Also, use to report direct sales of \$5,000 or more of consumer goods for resale.) | Rent or royalty payments; prizes and awards that are not for services, such as winnings on TV or radio shows. | \$600 or more, except \$10 or more for royalties | February 28* | January 31** |
| | | Payments to crew members by owners or operators of fishing boats including payments of proceeds from sale of catch. | All amounts | | |
| | | Section 409A income from nonqualified deferred compensation plans (NQDCs). | All amounts | | |
| | | Payments to a physician, physicians' corporation, or other supplier of health and medical services. Issued mainly by medical assistance programs or health and accident insurance plans. | \$600 or more | | |
| | | Payments for services performed for a trade or business by people not treated as its employees. Examples: fees to subcontractors or directors and golden parachute payments. | \$600 or more | | |
| | | Fish purchases paid in cash for resale. | \$600 or more | | |
| | | Crop insurance proceeds. | \$600 or more | | |
| | | Substitute dividends and tax-exempt interest payments reportable by brokers. | \$10 or more | | |
| Gross proceeds paid to attorneys. | \$600 or more | February 15** | | | |
| 1099-OID | Original Issue Discount | Original issue discount. | \$10 or more | February 28* | January 31** |
| 1099-PATR | Taxable Distributions Received From Cooperatives | Distributions from cooperatives passed through to their patrons including any domestic production activities deduction and certain pass-through credits. | \$10 or more | February 28* | January 31 |

*The due date is March 31 if filed electronically.

**The due date is March 15 for reporting by trustees and middlemen of WHFITs.

* Complete a separate Form 8865 for each foreign partnership for which you qualify under the categories of filers described in the form instructions. U.S. persons must also file Form 3520 to report certain transactions with foreign trusts and receipt of certain large gifts or bequests from foreign persons.

I. EARNINGS REPORTS DUE IN 2011 (Continued)

D. Information Forms (Continued)

3. Guide to Information Returns (Continued)

| Form | Title | What to Report | Amounts to Report | Due Date | |
|----------|---|--|--|---------------------------------|--|
| | | | | To IRS | To Recipient (unless indicated otherwise) |
| 1099-Q | Payments From Qualified Education Programs (Under Sections 529 and 530) | Earnings from qualified tuition programs and Coverdell ESAs. | All amounts | February 28* | January 31 |
| 1099-R | Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. | Distributions from retirement or profit-sharing plans, any IRA, insurance contracts, and IRA recharacterizations. | \$10 or more | February 28* | January 31 |
| 1099-S | Proceeds From Real Estate Transactions | Gross proceeds from the sale or exchange of real estate and certain royalty payments. | Generally, \$600 or more | February 28* | February 15 |
| 1099-SA | Distributions From an HSA, Archer MSA, or Medicare Advantage MSA | Distributions from an HSA, Archer MSA, or Medicare Advantage MSA. | All amounts | February 28* | January 31 |
| 3921 | Exercise of an Incentive Stock Option Under Section 422(b) | Transfer of an employer's stock to an employee pursuant to the exercise of an incentive stock option under section 422(b). | All amounts | February 28* | January 31 |
| 3922 | Transfer of Stock Acquired Through an Employee Stock Purchase Plan Under Section 423(c) | Transfer(s) of stock acquired through an employee stock purchase plan under section 423(c) | All amounts | February 28* | January 31 |
| 5498 | IRA Contribution Information | Contributions (including rollover contributions) to any individual retirement arrangement (IRA) including a SEP, SIMPLE, and Roth IRA; Roth conversions; IRA recharacterizations; and the fair market value (FMV) of the account. | All amounts | May 31 | (To Participant) For FMV/RMD Jan 31; For contributions, May 31 |
| 5498-ESA | Coverdell ESA Contribution Information | Contributions (including rollover contributions) to a Coverdell ESA. | All amounts | May 31 | April 30 |
| 5498-SA | HSA, Archer MSA, or Medicare Advantage MSA Information | Contributions to an HSA (including transfers and rollovers) or Archer MSA and the FMV of an HSA, Archer MSA, or Medicare Advantage MSA. | All amounts | May 31 | (To Participant) May 31 |
| W-2G | Certain Gambling Winnings | Gambling winnings from horse racing, dog racing, jai alai, lotteries, keno, bingo, slot machines, sweepstakes, wagering pools, poker tournaments, etc. | Generally, \$600 or more; \$1,200 or more from bingo or slot machines; \$1,500 or more from keno | February 28* | January 31 |
| W-2 | Wage and Tax Statement | Wages, tips, other compensation; social security, Medicare, withheld income taxes; and advance earned income credit (EIC) payments. Include bonuses, vacation allowances, severance pay, certain moving expense payments, some kinds of travel allowances, and third-party payments of sick pay. | See separate instructions | To SSA Last day of February* | To Recipient January 31 |

*The due date is March 31 if filed electronically.

I. EARNINGS REPORTS DUE IN 2011 (Continued)**E. Rules on 2010 Withholding from Supplemental Wage Payments****1. General Requirements**

The following discussion provides guidance on the proper way to withhold federal income tax from supplemental wage payments made in addition to regular wages:

Supplemental wages are compensation paid to an employee in addition to regular wages. Supplemental wage payments include bonuses, commissions, overtime pay, accumulated sick leave, severance pay, awards, prizes, back pay, retroactive wage increases for current employees, and payments for nondeductible moving expenses.

The payments may be made at a different time from regular wage payments, or may be based on a different wage rate or a different payroll period from regular wages, or on no particular payroll period at all. The supplemental withholding rate is generally 25%, effective retroactively to January 1, 2004 by federal law. Payments over \$1 million are subject to withholding at the highest tax rate, currently 35%.

You must decide whether to treat supplemental wage payments as regular wages or to separate them from regular wages before you withhold. The IRS provides computation rules that explain when supplemental wages must be included with regular wage payments and when they must be reported separately. The rules apply to supplemental payments made in the same calendar year that regular wages are paid.

The State of California now classifies supplemental and bonus payments into three categories for tax purposes as follows:

1. Regular Pay - All wages in the regular pay category are taxed based on the employee's W-4 in effect at the time the payment is made.
2. Supplemental Wages (such as overtime, severance pay and housing allowance) - The supplemental flat tax rate will be used if the payments are not paid with the employee's regular wages. If the payment is made with regular pay, the payment is taxed based on the employee's W-4; otherwise, the payment is taxed at the supplemental flat tax rate in effect at the time the payment is made, now 6.6% as of November 1, 2009.
3. Bonus Wages - The bonus flat tax rate will be used if the payments are not paid with the employee's regular wages. If the payment is made with regular pay, the payment is taxed based on the employee's W-4; otherwise the payment is taxed at the bonus flat rate in effect at the time the payment is made, currently 10.23%.

A payer is required to withhold on reportable payments, such as interest and dividends, under the following circumstances:

- a. The payee fails to furnish his TIN to the payor in the manner required;
- b. The IRS notifies the payor that the TIN furnished by the payee was incorrect;
- c. The IRS notifies the payor that backup withholding is required because the payee failed to properly report interest or dividends; or
- d. The payee fails to certify, under penalties of perjury, that the payee is not subject to backup withholding when such certification is required.

I. EARNINGS REPORTS DUE IN 2011 (Continued)**E. Rules on 2010 Withholding from Supplemental Wage Payments (Continued)****2. IRS Form 945 - Annual Return of Withheld Federal Income Tax**

Use this Form to report nonpayroll income tax withholding. These nonpayroll items include backup withholding and withholding on pensions, annuities, IRAs, and gambling winnings. Semi-weekly depositors are required to file Form 945-A, a summary of the tax liability, with their Forms 945.

Deposit withheld income tax (including backup withholding) with an authorized financial institution or the Federal Reserve Bank or branch that serves your area. Include Form 8109, Federal Tax Deposit Coupon. For 2010, File Form 945 no later than February 1, 2011.

If a taxpayer's total taxes for the year are less than \$2,500, the taxpayer is not required to make deposits, and can pay the taxes with the Form 945.

3. California Forms 592 and 597 - Returns for Tax Withheld at Source

Withholding agents must remit payments of tax withheld at source to the Franchise Tax Board by the required due dates in order to avoid interest assessments. Additionally, if Form 594, "Notice to Withhold Tax at Source" is issued by the California Franchise Tax Board, it must be completed as indicated in the instructions to that form. For 2010, the state has a new voucher that must be included with all payments.

F. Household Employee Taxes

If you pay a household employee cash wages of more than the amount specified by law in a tax year, \$1,700 in 2010 or 2011, you must withhold social security and Medicare taxes from all cash wages you pay to that employee. Unless you prefer to pay your employee's share of social security and Medicare taxes from your own funds, you should withhold a certain percentage set by law from each payment of cash wages. The specified dollar amount and percentages can be found under the topic "Do You Need To Pay Employment Taxes?" in Publication 926. Instead of paying this amount to your employee, pay it to the IRS with a matching amount for your share of the taxes. If you pay your employee's share of social security and Medicare taxes from your own funds, these amounts must be included in the employee's wage for income tax purposes. However, they are not counted as social security and Medicare wages or as Federal unemployment wages.

You are not required to withhold Federal income tax from wages you pay to a household employee. However, if your employee asks you to withhold Federal income tax and you agree, you will need Form W-4, Employee's Withholding Allowance Certificate, and Publication 15, (Circular E), Employer's Tax Guide, which has tax withholding tables.

If you withhold or pay social security and Medicare taxes, or withhold Federal income tax, you will need to file Form W-2, Wage and Tax Statement after the end of the year. You will also need a Form W-3, Transmittal of Wage and Tax Statement. To complete Form W-2 you will need both an employer identification number and your employee's social security number. If you do not already have an employer identification number (EIN), one can be requested by submitting Form SS-4 Application for Employer Identification Number.

If you paid cash wages to household employees totaling more than the specified dollar amount in any calendar quarter of the prior two years, you generally must pay Federal unemployment tax on a portion of the specified amount of cash wages you pay to each of your household employees in the current and following taxable years. For specific amounts look under the heading "Do You Need To Pay Employment Taxes?" in Publication 926.

If you must file Form W-2 or pay Federal unemployment tax, you will also need to file a Form 1040, Schedule H, Household Employment Taxes, after the end of the year with your individual income tax return.

For more information on withholding call FTB's Withhold at Source Unit at (916) 845-4900.

I. EARNINGS REPORTS DUE IN 2011 (Continued)**G. Penalties**

Withheld federal income taxes, social security and Medicare taxes along with certain excise taxes are called trust fund taxes. If trust fund taxes willfully aren't collected, not truthfully accounted for and paid, the IRS may charge a trust fund recovery penalty. The penalty is equal to the trust fund taxes evaded and may apply to a person or persons the IRS decides is responsible. Information return penalties (filing of Forms W-2, 1099, etc.) fall into three categories, as follows:

1. Failure to File Correct Information Returns by Due Date:

The penalty applies to failing to file timely returns, failing to include all information required to be shown on a return, and including incorrect information on a return (including taxpayer identification numbers). The penalty also applies for filing on paper when required to file on magnetic media, or failing to file paper forms that are machine readable.

2. Failure to Furnish Correct Payee Statements:

The penalty applies for failing to provide the statement by January 31, failing to include all information required to be shown on the statement or including incorrect information on the statement.

The penalties for failure to timely file information returns is increased, effective for returns required to be filed on or after January 1, 2011.

| New Failure to File Forms 1099 Penalties | | | | |
|--|--|---|--|--------------------------------------|
| | Defined | Per Return Penalty | Calendar-year Maximum | Calendar-year Maximum Small Business |
| First Tier | Filed after deadline but not more than 30 days | Increase from \$15 to \$30 | Increase from \$75,000 to \$250,000 | Increase from \$25,000 to \$75,000 |
| Second Tier | Filed more than 30 days late but before August 1 | Increase from \$30 to \$60 | Increase from \$150,000 to \$500,000 | Increase from \$50,000 to \$200,000 |
| Third Tier | Not filed before August 1 | Increase from \$50 to \$100 | Increase from \$250,000 to \$1.5 million | Increase from \$100,000 to \$500,000 |
| Intentional Disregard | | Greater of \$250 or 10% of aggregate of items to be reported. | | |
| Note: A small business is a business filer with gross receipts of not more than \$5 million. | | | | |

In addition to increased changes under the Health Care Acts, the Small Business Jobs Acts (SBJA) provides that, for payments made after December 31, 2010, rental real estate is treated as a trade or business for information reporting purposes. Individuals receiving rental income in 2011 are required to issue Forms 1099 to service providers reporting payments for \$600 or more during the year.

Form 8809 can be used to request for extension of time to file information returns with the IRS. There are specific instructions that come with the form. If the instructions are not followed, the IRS can deny the extension request. The extension is only for 30 days but if more time is required, taxpayers can request an additional 30 days to file.

I. EARNINGS REPORTS DUE IN 2011 (Continued)**G. Penalties (Continued)****2. Failure to Furnish Correct Payee Statements: (Continued)**

If the extension request is approved, it will only extend the date for filing the returns. It will not extend the due date for providing statements to recipients. Congress felt that it is more important to get the information to the recipients so they can start their tax returns, than to submit the information to the IRS.

California FTB assesses the same penalties as the IRS. The penalty amounts are the same, thus effectively doubling the IRS assessment rate.

H. Electronic Federal Tax Payment System (EFTPS)

Individuals, businesses, and tax professionals can now make a wide variety of payments via the Electronic Federal Tax Payment System (EFTPS) using the Internet or the phone. The new EFTPS initiative was launched in 2004 by way of an information release and the on-line release of a number of new IRS publications that explain the new system. IRS also launched a new on-line site devoted to EFTPS (www.eftps.com).

• EFTPS for Businesses and Entities

A business may use EFTPS to make all federal tax payments, including income, estimated and excise taxes.

Effective January 1, 2011, the Financial Management Service, a Bureau of the Treasury Department, is eliminating the system that allows Federal Tax Deposits to be made using paper coupons at government depository banks. On August 23, 2010, the Treasury Department and the Service published a notice of proposed rulemaking (REG-153340-09), 2010-42 I.R.B. 469 (74 FR 51707), to require electronic funds transfer for all Federal Tax Deposits and to eliminate the rules regarding Federal Tax Deposit coupons. The Electronic Federal Tax Payment System is available 24 hours a day, seven days a week.

A business can enroll for EFTPS on-line, or by completing Form 9779 (Business Enrollment Form) and mailing it to the EFTPS Enrollment Center. The enrollment steps (e.g., receipt of PIN and internet password) essentially are the same as they are for individuals.

Businesses (as well as other types of entities such as tax-exempts) have two choices: EFTPS-Direct and EFTPS-Through a Financial Institution.

• EFTPS - Direct

A business that uses EFTPS-Direct may initiate electronic payments via EFTPS-Online, EFTPS-PC Software (supplied by IRS at no charge), or EFTPS-Phone. The three methods can be used interchangeably. Businesses use the same procedure for making EFTPS payments as individuals (see discussion above).

• EFTPS - Through a Financial Institution

If its financial institution offers the service (for which it can levy a charge), a business may instruct it to electronically move funds from the business's account to the Treasury's. The tax payment must be initiated at least one day before payment is to be made. The tax payment must be made before the financial institution's ACH (Automated Clearing House) processing deadline. The financial institution then originates an ACH credit transaction to the Treasury's account, and the tax records of the business are updated at IRS.

Those businesses that use payroll companies are told to check with them for fees, deadlines and EFTPS enrollment instructions. Additionally, a business must enroll in EFTPS to initiate those tax payments not handled by its payroll company.

I. EARNINGS REPORTS DUE IN 2011 (Continued)**H. Electronic Federal Tax Payment System (EFTPS) (Continued)****• EFTPS - Through a Financial Institution (Continued)**

NOTE: On October 19, 2007, the IRS sent out a notice regarding its new EFTPS "batch provider" software that will be necessary to download in order to continue using the system. Before making payments, you need to register via the software at www.eftps.com/eftps/ext/hds/html. According to the IRS, the process takes about two weeks, so if this concerns you, we recommend that you download the User's Manual at the link above or contact the IRS at 1 (800) 945-0966.

II. AUTO MILEAGE AND EXPENSE REIMBURSEMENT INFORMATION**A. Employer Reimbursement Plan Rules**

Reimbursements that do not meet IRS "accountable" standards must be reported as salary or wages on Form W-2. An employee is eligible to deduct the related expenses as miscellaneous itemized deductions subject to the 2% adjusted gross income and standard deduction limitations. If the reimbursements meet IRS rules, the plan is called "an accountable plan" and the reimbursements will generally not be reported on Form W-2. Under "an accountable plan" the employee may deduct otherwise allowable expenses which are in excess of the reimbursement as miscellaneous itemized deductions subject to various limitations previously stated.

B. Accountable Plan Defined

A reimbursement or other expense allowance arrangement constitutes an accountable plan if it has the following three elements:

1. The related expense has a business connection;
2. the employer requires the employee to substantiate the expenses; and
3. the employer requires the employee to return any amount paid in excess of the substantiated expenses.

We strongly recommend that the plan be in writing. If an arrangement meets the three main requirements of an accountable plan, but the employee fails to return the excess amount, only the amount that has been substantiated is treated as paid under an accountable plan. Special deemed substantiation rules apply to mileage allowances and meal and incidental per-diem expense allowances.

The requirements stated above are applied on an employee-by-employee basis. Failure by one employee to fulfill one of the criteria does not cause amounts paid to other employees under the arrangement to be treated as paid under a non-accountable plan. A payer may have more than one arrangement with a particular employee without running afoul of the accountable plan requirements.

Expenses subject to these rules include business meals, travel expenses, auto expenses and other similar expenses of the employee which are ordinary and necessary to the business of the employer and reimbursed to employees. Further, so called "expense allowances" are also covered. Expenses should clearly indicate what they are, the amount of each expense, date incurred, persons for whom the expense was incurred, place where expense was incurred and the business purpose of the expense. Certain expenses such as meals and entertainment require more information than automobile expenses.

Although advances remain a problem under the accountable plan rules, the IRS has provided a three-part test so that if all three parts are met, advances will not be treated as compensation. Part one of the test requires that an employer may not advance an employee monies earlier than 30 days before expenses are anticipated to be paid or incurred. Part two states that the employee must make adequate accounting for the expenses paid or incurred no later than 60 days after the expenses are paid or incurred. Finally all monies in excess of those properly accounted for as employee expenses must be returned within 120 days of paying or incurring such costs. If the first two parts of this test are met, but the excess monies are not returned within the 120 day period, only the excess must be treated as taxable compensation. If either of the first two parts are not met, the entire amount advanced is taxable compensation.

II. AUTO MILEAGE AND EXPENSE REIMBURSEMENT INFORMATION (*Continued*)

B. Accountable Plan Defined (*Continued*)

One major exception relates to per-diem type allowances. Here only the amounts received in excess of government allowances are treated as compensation and are subject to employment taxes and withholding. Other than not being required to verify actual costs incurred, employees using the per-diem method must still meet the same substantiation tests as with other reimbursement plans in order to avoid inclusion of the entire allowance as compensation subject to employment taxes and withholding.

C. IRS Automobile Reimbursement Mileage Rates

For 2010, you may elect to reimburse employees for substantiated business mileage at 50¢ for all business miles driven. This rate is used to calculate the tax deduction for business travel as an alternative to deducting actual costs of maintaining an automobile. The rate also is used by many companies to reimburse workers who use their own cars on company business.

The optional standard mileage rate for 2011 will be 51¢ per mile for business mile driven, the IRS says in a news release (December 3, 2010).

III. AUTO RULES OTHER THAN MILEAGE AND EXPENSE REIMBURSEMENT

A. Taxation of Value of Automobile

Fringe Benefit Received in 2010

For 2010, vehicle use must be supported by the general substantiation rules that require a taxpayer to prove eligibility for, and the amount of, any deduction claimed for business use. Also, the taxable personal portion of vehicle use must be included in the "Employee Wage and Tax Statement" (Form W-2) with all applicable income and payroll taxes withheld from 2010 wages. It is mandatory to withhold payroll taxes and income taxes. In order to compute the taxable portion of vehicle use, the following should be done:

1. The employee should complete a "Summary Statement" (see sample copy attached) and submit this to the employer at the end of each calendar year.
2. The personal portion of vehicle use must be valued and included in fourth quarter 2010 payroll tax returns.
3. The employee's 2010 Form W-2 must include the taxable portion of vehicle use and related withholdings.

B. Employer Provided Vehicle

1. Exception for Commuting Use Only

There are several exceptions to the general vehicle substantiation rules. The commuting only exception may be used if all of the following five criteria are met:

- a. The vehicle is owned or leased by the employer and is provided to one or more employees for use in connection with the employer's trade or business and is actually used in that trade or business.
- b. For bona fide noncompensatory business reasons, the employer requires the employee to commute to and/or from work in the vehicle.
- c. The employer has established a policy that the vehicle may not be used for personal purposes other than commuting. Such policy must be in writing (an example of such written policy is attached) and be given to applicable employees (or posted).

III. AUTO RULES OTHER THAN MILEAGE AND EXPENSE REIMBURSEMENT *(Continued)*

B. Employer Provided Vehicle *(Continued)*

1. Exception for Commuting Use Only *(Continued)*

- d. The employer reasonably believes that the employee does not use the vehicle for any purpose other than commuting except for de minimis personal use; and
- e. The employee required to use the vehicle for commuting is not a highly compensated "control employee" of the employer.

A control employee is any employee who meets any of the following:

- Is an appointed or elected officer whose compensation is \$95,000 or more.
- Is a director of the employer.
- Owns 1% or more equity, capital or profits interest in the employer.

Example A - Commuting Valuation Rule

Employee Y works for employer X. X provides a company vehicle to Y for the performance of Y's duties and requires Y to commute to and from work in the vehicle for noncompensatory but valid employer business purposes. X does not allow Y to use vehicle for any purpose other than that described and X reasonably believes that Y does not use the vehicle for other purposes. X has given Y a written policy statement and Y acknowledged receipt of policy in writing. Y is not a "control" employee.

Based on the information presented above, the five criteria necessary for the commuting only use exception are met. The taxable fringe benefit received would be calculated by multiplying \$3 times the total commuting days used by the employee. (A one-way commute would be valued at \$1.50) and:

- a. The employer must deduct all applicable payroll taxes and withhold income taxes from wages paid in the year that the benefit is received. (The withholding of income taxes, but not payroll taxes, can be waived at the employee's discretion.)
- b. The computed amount must be added to compensation records for that employee and included on Form W-2.
- c. The employee can reimburse the employer in January 2011 for all Social Security (FICA) and State Disability Insurance (SDI) required to be withheld if the employer was unable to timely withhold as stated in a.

2. Sample Notice to Employees When Using Commuting Use Only Exception

TO: (Employee)
 FROM: (Employer)
 DATE: _____
 RE: Employer-Provided Vehicle

We have elected to use a special valuation rule for 2010 in computing the value of personal use of the vehicle which has been assigned to you. The special rule will value personal use by an automobile lease valuation rule, vehicle cents-per-mile rule, or a commuting valuation rule. We will attempt to use the method (which is available to you) that results in the least amount of additional taxable income.

III. AUTO RULES OTHER THAN MILEAGE AND EXPENSE REIMBURSEMENT (Continued)**B. Employer Provided Vehicle (Continued)****2. Sample Notice to Employees When Using Commuting Use Only Exception (Continued)**

In order to use the above special valuation rule, you must provide us with a written statement substantiating your personal use of the vehicle during 2010. This statement must include your total mileage for the year, broken down between business, commuting and other personal miles. Attached is a statement which should be used in substantiating the information to us.

In general, if you do not submit a written statement to us, the value of other personal use will be computed as if no portion of your driving was for business purposes.

Instructions to Employer

The above sample notice should state which of the three methods applies to the specific employee to which the notice is written. Any one of the methods may apply to any employee; thus an employer could have all three methods being utilized during the same calendar year.

3. Other Than Commuting Use Only

If one or more of the five criteria listed previously are not met, the following valuation methods, as described in examples B and C, may be used.

Example B - Vehicle Cents Per Mile

The value of any personal use by an employee of your vehicle may be calculated by multiplying the standard mileage rate (50¢ in 2010), by the number of miles driven by an employee for personal purposes, if you provide your employee with the use of a vehicle that either:

- you reasonably expect will be regularly used in your business throughout the calendar year (or a shorter period that the vehicle is owned or leased by you)
- is driven primarily by employees for at least 10,000 miles in a calendar year.

A vehicle is considered "regularly used" in an employer's business if either at least 50 percent of its total mileage for the year is for the employer's business or it is generally used each workday in an employer-sponsored car pool to transport at least three employees to and from work. You may not use the cents-per-mile rate unless the same or comparable vehicle could be leased on a cents-per-mile basis. Once the cents-per-mile rate has been adopted for a vehicle, you must continue to use that valuation method until the vehicle no longer qualifies.

For 2010, the cents-per-mile method can be used only for cars that had a fair market value of \$15,500 or less on the day they were first made available to an employee. This dollar amount is adjusted periodically to reflect inflation. For cars having a value in excess of that amount, the value of the availability of the car is to be determined under the general fair market value rule or the annual lease value method.

Maintenance and insurance are included in the standard mileage rate. However, no reduction in the rate is allowed if you do not provide these services. The rate also includes the fair market value of employer-provided fuel for miles driven in the United States, Canada, and Mexico. If fuel is not provided by you as the employer, the rate may be reduced by no more than 5.5 cents.

III. AUTO RULES OTHER THAN MILEAGE AND EXPENSE REIMBURSEMENT (Continued)

B. Employer Provided Vehicle (Continued)

Example C - Automobile "Lease" Valuation Rule

Generally, you figure the annual lease value of an automobile as follows:

1. Determine the fair market value (FMV) of the automobile as of the first date the automobile is available for personal use.
2. Using the IRS Annual Lease Value Table, read down column 1 until you come to the dollar range within which the FMV of the automobile falls. Then read across to column 2 to find the corresponding annual lease value.

To obtain the ALV, the FMV of the vehicle must be determined as of the first day it was made available to the employee. In the fifth year that the auto is used, the FMV is redetermined and a new annual lease value is calculated from the table. That redetermined value is then used for the second four-year period.

Also, if the employer provides gas and oil, an additional taxable amount of 5-1/2¢ per mile of personal use must be added. The value of insurance, maintenance and repairs is included in the annual lease value table amount. Given an annual lease value of \$6,600 for a vehicle available all 365 days of the year and driven 5,000 personal and commuting miles out of 20,000 total miles, the taxable fringe benefit to be included as employee compensation would be calculated as follows:

| | | | | | |
|-------------------|-------------------|---|------------------------|---|----------------|
| (1) Vehicle usage | $\frac{365}{365}$ | X | $\frac{5,000}{20,000}$ | = | \$1,650 |
| (2) Gas and oil | 5,000 miles | X | 5-1/2¢ | = | <u>275</u> |
| | <u>Total</u> | | | = | <u>\$1,925</u> |

C. Employee Uses Own Vehicle

In this circumstance, the submission of the "Summary Statement" is crucial as will be explained in the following example.

If an employer elects to use the special valuation rules shown in Examples A through C, the employer must notify the employee of the election by the later of January 31 of the calendar year for which the election is to apply or 30 days after the employer first provides the benefit to the employee.

Example D

Employee D works for employer X. D drives a personal vehicle for the performance of D's duties on behalf of X. X provides 100% of the upkeep and maintenance (\$4,000) and D's Summary Statement indicates 25% personal use.

The taxable fringe benefit received would be calculated as follows:

1. The amount X has paid (\$4,000) times D's personal usage (25%).
 - (a) In this example, \$4,000 X 25% = \$1,000.
 - (b) Only the personal portion is included as additional income.
2. Follow procedures a through e as outlined in Example A.

III. AUTO RULES OTHER THAN MILEAGE AND EXPENSE REIMBURSEMENT (Continued)

C. Employee Uses Own Vehicle (Continued)

Example D (Continued)

The above examples present the application of the special vehicle valuation regulations in a few generalized situations. It is not possible to cover all situations as the regulations covering valuation of employee fringe benefits are long and detailed. If you feel the above examples do not cover your specific situation, please contact the partner at Miller, Kaplan, Arase & Co., LLP in charge of your account for further guidance.

D. Summary Statement

Employee Name: _____

Social Security Number: _____

Employer: _____

Vehicle: _____

| | | | |
|------|-------|------|-----------|
| Make | Model | Year | ID Number |
|------|-------|------|-----------|

Period of Usage: From _____ to _____ (include month, date and year)

- Total miles driven for the period: _____
 - Total business miles driven for the period: _____
 - Total commuting miles driven for the period: _____
 - Total other personal miles (but not commuting miles) driven during the period: _____
 - Have you maintained sufficient evidence to support the business use?* Yes _____ No _____
 - Is the evidence written? Yes _____ No _____
 - Do you have another car available for personal use? Yes _____ No _____
- If yes, year, make and model _____

I hereby attest that the information listed above is true and correct to the best of my knowledge.

Employee

Date

*Note: Your records are not to be submitted with this statement to us; however, you are required to retain the supporting documents for a minimum of six years. The requirements for recordkeeping are solely your responsibility and not ours, as your employer. Please refer to IRS recordkeeping requirements if you have any questions.

E. Policy Statement "Commuting Only Use" - Special Rule

If an employer and employee elect to adopt the special rule ("Commuting Only Use"), a written policy must be established.

The policy could be worded as follows:

Employees who are provided with company owned automobiles must take those automobiles home at night to provide safe parking. Employees may not, however, use such automobile for personal purposes, other than for commuting or de minimis personal use.

III. AUTO RULES OTHER THAN MILEAGE AND EXPENSE REIMBURSEMENT (Continued)

F. Annual Lease Value Table for Employer Provided Autos

The purpose of this table is to establish the annual value of personal use of employer provided autos. Take the table value times the personal use percentage. The product is the personal use value includable as additional wages subject to withholdings (including FICA and SDI).

| Automobile fair market value when first provided to employee | Annual lease value* |
|---|---------------------|
| \$ 0 to \$ 999..... | \$ 600 |
| 1,000 to 1,999..... | 850 |
| 2,000 to 2,999..... | 1,100 |
| 3,000 to 3,999..... | 1,350 |
| 4,000 to 4,999..... | 1,600 |
| 5,000 to 5,999..... | 1,850 |
| 6,000 to 6,999..... | 2,100 |
| 7,000 to 7,999..... | 2,350 |
| 8,000 to 8,999..... | 2,600 |
| 9,000 to 9,999..... | 2,850 |
| 10,000 to 10,999..... | 3,100 |
| 11,000 to 11,999..... | 3,350 |
| 12,000 to 12,999..... | 3,600 |
| 13,000 to 13,999..... | 3,850 |
| 14,000 to 14,999..... | 4,100 |
| 15,000 to 15,999..... | 4,350 |
| 16,000 to 16,999..... | 4,600 |
| 17,000 to 17,999..... | 4,850 |
| 18,000 to 18,999..... | 5,100 |
| 19,000 to 19,999..... | 5,350 |
| 20,000 to 20,999..... | 5,600 |
| 21,000 to 21,999..... | 5,850 |
| 22,000 to 22,999..... | 6,100 |
| 23,000 to 23,999..... | 6,350 |
| 24,000 to 24,999..... | 6,600 |
| 25,000 to 25,999..... | 6,850 |
| 26,000 to 27,999..... | 7,250 |
| 28,000 to 29,999..... | 7,750 |
| 30,000 to 31,999..... | 8,250 |
| 32,000 to 33,999..... | 8,750 |
| 34,000 to 35,999..... | 9,250 |
| 36,000 to 37,999..... | 9,750 |
| 38,000 to 39,999..... | 10,250 |
| 40,000 to 41,999..... | 10,750 |
| 42,000 to 43,999..... | 11,250 |
| 44,000 to 45,999..... | 11,750 |
| 46,000 to 47,999..... | 12,250 |
| 48,000 to 49,999..... | 12,750 |
| 50,000 to 51,999..... | 13,250 |
| 52,000 to 53,999..... | 13,750 |
| 54,000 to 55,999..... | 14,250 |
| 56,000 to 57,999..... | 14,750 |
| 58,000 to 59,999..... | 15,250 |

* Add 5.5 cents per mile for gas if reimbursed by employer.

IV. NEW LAWS AND OTHER CHANGES

A. Highlights of the Hire Act of 2010

On March 18, the President signed the Hiring Incentives to Restore Employment Act of 2010 (the HIRE Act, P.L. 111-47). It includes two incentives to hire new workers, but also contains provisions to encourage investment in business machinery, as well as provisions to heighten tax compliance among U.S. taxpayers with foreign accounts and assets. The hiring incentives expire as of December 31, 2010, but to the extent that you have unfiled returns or need to amend them, here is what you need to know:

1. Hiring Incentives

- **6.2 percent payroll tax exemption**

You may be exempt from your 6.2 percent share of social security tax on wages paid to qualified employees, effective for wages paid from March 19, 2010, through December 31, 2010. Most employers will claim it on Form 941, Employer's QUARTERLY Federal Tax Return, beginning with the second quarter of 2010. The exemption will also be claimed on annual payroll tax returns such as Form 944, Employer's ANNUAL Federal Tax Return.

- **Tax credit up to \$1,000 per worker**

You may claim an additional new hire retention credit, up to \$1,000 for each qualified employee you keep as an employee for at least a year and whose wages are not significantly reduced in the second half of the year. You claim it on your income tax return for your business, usually in tax year 2011.

Qualified employers

You may qualify for these tax breaks if you are a small or large business, tax-exempt organization, public college or university, Indian tribal government or farmer, but household employers and federal, state and local government employers, other than public colleges and universities, do not qualify.

Qualified employees

Generally, those beginning employment with you after February 3, 2010, and before January 1, 2011, who were either unemployed or worked 40 hours or less for anyone during the previous 60 days can qualify. You must get a Form W-11, or similar signed affidavit, from new hires certifying they were not employed for more than 40 hours during the 60 days before beginning employment.

IRS has revised Form 941 to reflect the new Social Security tax exemption

Business owners cannot take advantage of these benefits to hire relatives nor can companies fire a current employee and hire a new employee covered by the HIRE Act to take the existing position, unless the original employee quit or was fired for cause.

Businesses, agricultural employers, tax-exempt organizations, tribal governments and public colleges and universities all qualify to claim the payroll tax exemption for eligible newly-hired employees. Household employers and federal, state and local government employers, other than public colleges and universities, are not eligible.

2. Increased Sec. 179 entitlement

- ...the dollar limitation on the Code Sec. 179 expensing deduction is \$250,000, and
- ...the reduction in the dollar limitation (beginning of-phase out amount) starts to take effect when property placed in service in a tax year exceeds \$800,000.

Under pre-Act law, for tax years beginning in 2010, the maximum amount that could be expensed under Code Sec. 179, was \$134,000, and the maximum deductible expense had to be reduced (i.e., phased out, but not below zero) by the amount by which the cost of Code Sec. 179 property placed in service during the 2010 tax year exceeded \$530,000 (i.e. the beginning-of-phase out amount).

IV. NEW LAWS AND OTHER CHANGES (Continued)

A. Highlights of the Hire Act of 2010 (Continued)

3. Foreign Account Tax Compliance Act (FATCA)

The other large matter is that for tax years beginning after March 18, 2010, the Act provides that individuals with an interest in a "specified foreign financial asset" during the tax year must attach a disclosure statement to their income tax return for any year in which the aggregate value of all such assets is greater than \$50,000. In addition, to the extent provided by the IRS in regulations or other guidance, Code Sec. 6038D will apply to any domestic entity formed or availed of for purposes of holding, directly or indirectly, specified foreign financial assets, in the same manner as if the entity were an individual. Although the nature of the information required is similar to the information currently required to be disclosed on an FBAR, Form 90-22.1, it isn't identical.

"Specified foreign financial assets" are: (1) depository or custodial accounts at foreign financial institutions, and (2) to the extent not held in an account at a financial institution, (a) stocks or securities issued by foreign persons, (b) any other financial instrument or contract held for investment that is issued by or has a counterparty that is not a U.S. person, and (c) any interest in a foreign entity (Code Sec. 6038 D(b)).

Individuals who fail to make the required disclosures are subject to a penalty of \$10,000 for the tax year. An additional \$10,000 penalty per each 30 days of failure to disclose (or fraction of such 30-day period) applies if the failure to disclose continues for more than 90 days after IRS notifies an individual by mail of his failure to disclose, up to a \$50,000 maximum penalty. No penalty is imposed where an individual can establish that the failure was due to reasonable cause and not willful neglect. A foreign law prohibition against disclosure of the required information doesn't constitute reasonable cause.

B. Highlights of the Health Care Act

On March 23, the President signed into law new health care reform legislation under the Patient Protection and Affordable Care Act (Health Care Act, P.L. 111-48), the "Act", followed a week later by a similarly named Reconciliation Act (P.L. 111-152). The basic tenant is the mandate for U.S. residents to obtain health insurance. These laws are complex, voluminous and have staggered effective dates for the various provisions. The new House majority vows to repeal the law.

There are benefits that assist persons with pre-existing conditions obtain coverage, allow children under age 27 to qualify as dependents and allow increased coverage for preventative care and prevent insurance company rescissions. There will also be tax credits for small employers to enable small employers to purchase health insurance for their employees.

However all the benefits are set to be paid for by increased information reporting and new taxes as follows:

1. The Act requires Information reporting on payments made to Corporations not exempt under Code Sec. 501(a). Thus a business will have to file an information return for all payments aggregating \$600 or more in a calendar year to a single payee for payments made after December 31, 2011. The theory is that the government will match all the reporting forms with reported income and that this will result in billions of dollars of new tax revenue.
2. The cost of employer-sponsored health coverage must be included on Form W-2. For years beginning after December 31, 2010, an employer must disclose on each employee's annual Form W-2 the value of the employee's health insurance coverage sponsored by the employer. The cost would not become taxable income, but is merely a disclosure requirement.
3. The Act imposes a tax on "Cadillac" plan coverage by imposing a nondeductible excise tax on the value of employer sponsored health insurance for an employee that exceeds a threshold amount. The tax will be 40% of the value that exceeds a set amount, after December 31, 2017. The basic threshold amounts are set to be \$10,200 for an individual coverage and \$27,500 for family coverage, but there will be situations where higher thresholds apply.

IV. NEW LAWS AND OTHER CHANGES *(Continued)*

B. Highlights of the Health Care Act *(Continued)*

4. New taxes and penalties on individuals - individuals who earn (either from wages or self-employment) more than \$200,000 for the year (\$250,000 for married couples) will be paying an additional .9% in Medicare tax, starting in 2013. Individuals whose adjusted gross income exceed \$200,000 (\$250,000 for joint filers), will be paying an additional 3.8% Medicare tax on net investment income, starting in 2013. Individuals who do not obtain health insurance will be subject to a penalty tax starting in 2014.
5. Employers with more than 50 fulltime employees after December 31, 2013 will have to certify whether it offers its staff and their dependents the opportunity to enroll in coverage under an employer-sponsored plan.
6. For months beginning after December 31, 2013, the Act provides a large employer (generally an employer with at least 50 full-time employees) that doesn't offer health care coverage for all its full-time employees, offers minimum essential coverage that is unaffordable or offers minimum essential coverage that consists of a plan under which the plan's share of the total allowed cost of benefits is less than 60%, must pay a penalty.

C. Highlights of the Small Business Jobs Act of 2010

1. **Substantially Increased Sec. 179 Expensing for 2010 and 2011**

Under pre-Act law, the maximum amount that may be expensed under Code Sec. 179 was \$250,000 (dollar limitation) in the case of a tax year beginning in 2008 through 2010, and the maximum deductible expense had to be reduced (i.e. phased out, but not below zero) by the amount by which the cost of Code Sec. 179 property placed in service during a tax year beginning in 2008 through 2010 exceeded \$800,000 (beginning-of-phaseout limitation). The \$250,000 and \$800,000 amounts were not adjusted for inflation.

New law. For tax years beginning in 2010 or 2011: (1) the dollar limitation on the expense deduction is \$500,000; and (2) the reduction in the dollar amount limitation starts to take effect when property placed in service in a tax year exceeds \$2,000,000 (beginning-of-phaseout amount). (Code Sec. 179(b)(1) and Code Sec. 179(b)(2), as amended by Act Sec. 2021(a)).

2. **Certain Real Estate Improvement Property Now Eligible for Expensing**

Under pre-Act law, qualifying property for purposes of the Code Sec. 179 expensing election was limited to depreciable tangible personal property purchased for use in the active conduct of a trade or business, including "off-the-shelf" computer software placed in service in tax years beginning before 2011.

The otherwise allowable Code Sec. 179 expense deduction (see paragraph 101) is further limited to the aggregate amount of taxable income from any of the taxpayer's active trades or businesses (the taxable income limit). Under the general carryover rule, any amount that can't be deducted as an expense because of the taxable income limit is carried over to later tax years until it can be deducted.

New law. For any tax year beginning in 2010 or 2011, a taxpayer may elect to treat up to \$250,000 of qualified real property as Code Sec. 179 property. (Code Sec. 179(f)(1), as amended by Act Sec. 2021(b)).

Qualified real property is:

- (A) qualified leasehold improvement property described in Code Sec. 168(e)(6),
- (B) qualified restaurant property described in Code Sec. 168(e)(7) (without regard to the placed-in-service date specified in Code Sec. 168(e)(7)(A)(i) for Code Sec. 168 depreciation purposes), and
- (C) qualified retail improvement property described in Code Sec. 168(e)(8) (without regard to the placed-in-service date specified in Code Sec. 168(e)(8)(E) for Code Sec. 168 depreciation purposes) (Code Sec. 179(f)(2)(C)).

IV. NEW LAWS AND OTHER CHANGES (Continued)

C. Highlights of the Small Business Jobs Act of 2010 (Continued)

3. Bonus First-Year Depreciation Extended Through 2010

Under Code Sec. 168(k), taxpayers may claim a 50% bonus depreciation allowance in the year qualified property is placed in service (with corresponding reductions in basis and, thus, reductions of the regular depreciation deductions otherwise allowed in the placed-in-service year and in later years).

Property is qualified property only if:

- ...it is of a qualifying type; i.e., generally, most machinery, equipment or other tangible personal property; most computer software; and certain leasehold improvements;
- ...its original use generally must begin with the taxpayer after December 31, 2007;
- ...it meets a timely-placed-in-service requirement;
- ...it meets a timely acquisition requirement;
- ...it isn't either property depreciated under the alternative depreciation system or "qualified New York Liberty Zone leasehold improvement property"; and
- ...it isn't the subject of certain disqualifying transactions involving users other than the taxpayer or persons related to the taxpayer or the other users.

New law. The Act extends 50% bonus first-year depreciation for one year, i.e., makes it available for qualifying property acquired and placed in service in 2010 (as well as 2011, for certain long-production-period property).

4. Auto and Vehicle Depreciation Expense Cap Boosted

Under Code Sec. 280F, depreciation deductions (including Code Sec. 179 expensing) that can be claimed for passenger autos is subject to dollar limits that are annually adjusted for inflation. For passenger automobiles placed in service in 2010, the adjusted first-year limit is \$3,060. For light trucks or vans, the adjusted first year limit is \$3,160. Light trucks or vans are passenger automobiles built on a truck chassis, including minivans and sport-utility vehicles (SUVs) built on a truck chassis that are subject to the Code Sec. 280F limits because they are rated at 6,000 points gross (loaded) vehicle weight or less.

The applicable first-year depreciation limit is increased by \$8,000 (not indexed for inflation) for any passenger automobile that is "qualified property" under the bonus depreciation rules of Code Sec. 168(k) (see paragraph 104) and which isn't subject to a taxpayer election to decline 50% bonus depreciation.

Under pre-Act law, qualified property didn't include property placed in service after December 31, 2009 (except for certain aircraft and certain long-production-period property that had, instead, a December 31, 2010 placed-in-service deadline).

New law. The Act provides that the placed-in-service deadline for "qualified property" is December 31, 2010 (December 31, 2011 for the aircraft and long-production-period property). (Code Sec. 168(k)(2)(A)(iv), as amended by Act Sec. 2022(a)).

Observation: Thus, for a passenger automobile that is qualified property under Code Sec. 168(k), (and isn't subject to the election to decline bonus depreciation and AMT depreciation relief), the Act extends the placed-in-service deadline for the \$8,000 increase in the first-year depreciation limit from December 31, 2009 to December 31, 2010.

Illustration: On January 15, 2010, 'T', a calendar year taxpayer, placed a new \$40,000 passenger automobile into service in his business. Assume that the vehicle is "qualified property" (and an election to decline bonus depreciation and AMT depreciation relief doesn't apply to the vehicle). T is allowed first-year depreciation for 2010 of \$11,060 (\$3,060 general first year allowance for 2010 plus \$8,000). If the vehicle is a light truck or van, T is allowed first-year depreciation for 2010 of \$11,060 (the \$3,160 general first year allowance for 2010 plus \$8,000).

IV. NEW LAWS AND OTHER CHANGES *(Continued)*

C. Highlights of the Small Business Jobs Act of 2010 *(Continued)*

5. Deductions for Startup Expenses Increased

A taxpayer may elect to deduct start-up expenses of a trade or business, and is deemed to have made this election unless it chooses to forgo the election by clearly electing to capitalize those costs on the return for the tax year in which the trade or business began.

Under pre-Act law, a taxpayer can elect a current deduction for up to \$5,000 of start-up expenditures in the tax year in which the active trade or business begins. However, this \$5,000 amount is reduced (but not below zero) by the amount by which the cumulative cost of start-up expenditures exceeds \$50,000 (the deduction phaseout threshold). The remainder of the start-up expenditures can be claimed as a deduction ratably over 180 months starting with the month the active trade or business began.

New law. For tax years beginning after December 31, 2009, and before January 1, 2011, the \$5,000 amount for start-up expenditures is increased to \$10,000, and the phaseout threshold is increased from \$50,000 to \$60,000. (Code Sec. 195(b)(3), as amended by Act Sec. 2031(a)).

6. New 5-year Carryback Period of Eligible Small Business Credits

Under pre-Act law, unused general business credits (GBCs) of a business may generally be carried back to offset taxes paid in the previous year, and the remaining amount may be carried forward for 20 years to offset future tax liabilities.

New law. Eligible small business credits that are determined in the first tax year of the taxpayer beginning in 2010 but are unused (i.e., aren't allowed due to the tax liability limit described above):

- are carried back to each of the five tax years preceding the unused credit year (instead of to the tax year preceding the unused credit year),

7. Reduction in S Corporation Built-In Gain Period

An S corporation is generally not subject to tax, but instead passes through its income to its shareholders, who pay tax on their pro-rata shares of the S corporation's income. Where a corporation that was formed as a C corporation elected to become an S corporation (or where an S corporation receives property from a C corporation in a nontaxable carryover basis transfer), the S corporation is taxed at the highest corporate rate (currently 35%) on all gains that were built-in at the time of the election if the gain is recognized during a recognition period. Under pre-Act law, the recognition period was the first ten S corporation years (or during the ten-period after the transfer).

New law. For tax years beginning after December 31, 2010, the Act provides that for S corporation tax years beginning in 2011, no tax is imposed on the net unrecognized built-in gain of an S corporation if the fifth year in the recognition period preceded the 2011 tax year. (Code Sec. 1374(d)(7)(B)(ii), as amended by Act Sec. 2014(a)).

Observation: Thus, a seven tax year period applies for the 2009 and 2010 tax years, while a five year period will apply for the 2011 tax year. S corporations that are considering selling assets that may be subject to the built-in gains tax might consider delaying the sale of the assets until the 2011 tax year in order to avoid the tax.

IV. NEW LAWS AND OTHER CHANGES *(Continued)*

C. Highlights of the Small Business Jobs Act of 2010 *(Continued)*

8. **Deducting Health Insurance Costs For Self-Employed**

New law. For a taxpayer's first tax year beginning after December 31, 2009, the income tax deduction allowed to self-employed individuals for the cost of health insurance for themselves, their spouses, dependents, and children who haven't attained age 27 as of the end of the tax year is also allowed in calculating net earnings from self-employment for purposes of the self-employment tax. (Committee Report) Specifically, the Act, provides that the rule disallowing a deduction of a self-employed individual's health insurance costs in determining net earnings from self-employment applies only for tax years beginning before January 1, 2010, or after December 31, 2010. (Code Sec. 162(l)(4) , as amended by Act Sec. 2042(a)), effective for tax years beginning after December 31, 2009.

9. **Information Reporting Required for Rental Income from Realty**

New law. For payments made after December 31, 2010, the Act provides that, except as provided below, solely for purposes of Code Sec. 6041(a) information reporting, a person receiving rental income from real estate will be considered to be engaged in a trade or business of renting property. (Code Sec. 6041(h)(1), as amended by Act Sec. 2101(a)). Thus, recipients of rental income from real estate generally are subject to the same information reporting requirements as taxpayers engaged in a trade or business. In particular, rental income recipients making payments of \$600 or more during the tax year to a service provider (such as a plumber, painter, or accountant) in the course of earning rental income are required to provide an information return (typically Form 1099-MISC) to IRS and to the service provider. (Committee Report)

The rental property expense payment reporting doesn't apply to:

...any individual who receives rental income of not more than a minimal amount, as determined under IRS regulations;

...any individual (including one who is an active member of the uniformed services or an employee of the intelligence community) if substantially all rental income is derived from renting the individual's principal residence (as defined for purpose of the home sale exclusion in Code Sec. 121(d)(9)(C)(iv)) on a temporary basis;

...any other individual for whom the Code Sec. 6041 requirements would cause hardship, as determined under IRS regulations. (Code Sec. 6041(h)(2)).

10. **Information Return and Payee Statement Penalties Increased**

See the chart on page 11 for increased information reporting related penalties.

Also note that new laws provide that the penalty amounts will be adjusted for inflation every five years with the first adjustment to take place after 2012, effective for each year afterwards. (Code Sec. 6721(f)(1)). Additionally, there are increases to payee statement penalties relating to failure to furnish K-1's broker statements and mortgage interest statements.

11. **Miscellaneous**

Finally among other changes enacted by this law, the Act provides that computer software is qualifying property for purposes of the Code Sec. 179 election if it is placed in service in a tax year beginning after 2002 and before 2012. And for tax years beginning after December 31, 2009, the Act removes cellular telephones (cell phones) and other similar telecommunications equipment from the categories of "listed property" under Code Sec. 280F (Code Sec. 280F(d)(4)(A), as amended by Act Sec. 2043(a)). Thus, the heightened substantiation requirements and special depreciation rules that apply to listed property don't apply to cell phones.

IV. NEW LAWS AND OTHER CHANGES (Continued)**D. Severance Taxes May Not Be Subject To FICA Taxes**

During 2010, a federal district court held in a case involving a bankrupt retailer that the tax code exempts severance pay from FICA taxes. This contradicts the IRS position that severance pay only avoids FICA tax, if it is tied to receipt of unemployment benefits. As such, companies may want to consider filing protective refund claims for past such payments before the statute of limitations expires on those payments.

E. Online Selling and New Third-Party Network Reporting

The payment settlement reporting requirements of new IRS § 6050W, go into effect next year, and apply broadly to transactions conducted by debit or credit card, as well as third-party network transactions.

The reporting requirement was introduced by the Housing Assistance Tax Act of 2008 (PL 110-289). Banks or other "merchant acquiring entities" such as e-bay, will report aggregate amounts of payment card transactions to payees and the IRS, and third-party networks likewise will report aggregate payments.

Section 6050W(e) provides a relatively high de minimis threshold for transactions settled by third-party networks: Reporting is required when the total gross reportable amount to a payee exceeds \$20,000 and the aggregate number of transactions exceeds 200 (both conditions must be met).

The IRS has drafted a new Form 1099-K for this purpose, which effects online transactions beginning in January 1, 2011. The first reports will go to the IRS in January 2012.

F. Information Reporting for Incentive Stock Options

New for tax year 2010, companies will have to file information returns with the IRS for incentive stock option (ISO) and employee stock purchase plan (ESPP) transactions. The returns must be filed on Form 3921 for ISOs and Form 3922 for ESPPs. The deadline for filing these forms on paper is February 28, 2011, and March 31, 2011, if filing electronically. The deadline for distributing the statements to employees is still January 31.

Draft versions of IRS Forms 3921 and 3922 were made available on July 23, for review and comment.

ISOs must be reported on Form 3921. The July 2010 draft version of the form includes boxes to identify the transferee of the stock and the employee, plus the following boxes:

- Box 1. Date option was granted.
- Box 2. Date option was exercised.
- Box 3. Exercise price per share.
- Box 4. Fair market value per share on exercise date.
- Box 5. Number of shares transferred.
- Box 6. If someone other than the transferor is filing this form, the name, address, and EIN of the corporation whose stock is being transferred.

ESPPs must be reported on Form 3922. The July 2010 draft version of the form includes boxes to identify the corporation and the employee, plus the following boxes:

- Box 1. Date option was granted.
- Box 2. Date option was exercised.
- Box 3. Fair market value per share on grant date.
- Box 4. Fair market value per share on exercise date.
- Box 5. Exercise price per share.
- Box 6. Number of shares transferred.
- Box 7. The date legal title was transferred.
- Box 8. Exercise price per share determined as if the option was exercised on the date shown in Box 1.

IV. NEW LAWS AND OTHER CHANGES (*Continued*)

G. California Employment Tax Form Changes

As indicated on page 2, starting with the first quarter of 2011, California employers will no longer file Form DE 6, Quarterly Wage and Withholding Report. Also, beginning in 2012, employers will no longer file Form DE 7, Annual Reconciliation Statement. Instead, employers will file new:

- Form DE 9, Quarterly Contribution Return and Report of Wages; and
- Form DE 9C, Quarterly Contribution Return and Report of Wages (Continuation).

Form DE 9 will allow employers to report their unemployment insurance, employment training tax, and state disability insurance contributions, along with the personal income tax/withholding, *quarterly*, instead of annually, on Form DE 7. In fact, the new Form DE 9 will look a lot like Form DE 7, with the exception of fields for quarterly reporting of employment taxes. There will be no year end form as complete information will be on the DE 9.

The new form will allow the EDD and employers to identify overpayments more quickly, which will result in faster refunds. In addition, the EDD will be able to promptly notify employers of any amounts due.

Employers will also continue to report quarterly detailed wage items for each worker, but will report these items on Forms DE 9 and DE 9C, instead of Form DE 6.

The quarterly reporting changes will not affect:

- Deposit and return due dates;
- Annual household employers, disability insurance voluntary plan filers, or disability insurance elective coverage filers; or
- The use of Form DE 88ALL, Payroll Tax Deposit, to make deposits.

Employers must continue to use Forms DE 6 and DE 7 for years prior to 2011. This means that, for 2010, Form DE 7 must be filed by employers no later than January 31, 2011.

Registered employers will receive the new forms automatically by mail starting in 2011. The new forms will also be available at local EDD offices in December 2010 and online.

H. FTB Enforcement of Electronic Payment by Individuals

There are reports that the California Franchise Tax Board intends to begin enforcing the law which requires penalties against certain individuals who fail to make payments electronically starting in 2011. There was a law passed in 2008 that mandated that taxpayers who made a single estimated tax or extension payment greater than \$20,000 for a taxable year beginning on or after January 1, 2009 or who filed a return with a tax liability greater than \$80,000 for a taxable year beginning on or after January 1, 2009 must make all subsequent payments electronically. The law has not previously been enforced, but the FTB apparently will start doing so.

If you fall into this category, short of applying for a waiver with Form 4107, the simplest way to comply is to make your payments (including the 4th quarter 2010 state estimate due in January 2011) by going to the ftb.ca.gov website. At the left side of the screen, click on "Online Services". Then go to "Web Pay". From there go to "Make a Payment" at the bottom of the screen and follow the prompts by entering the required information which will include the bank account and bank routing number.

The penalty for non-compliance equals 1% of the amount that was not paid electronically. Businesses that have been informed that they must pay electronically must continue to do so.

I. California "Use Tax" Reporting Requirements

An Assembly Bill passed a couple years ago, added section 6225 to the Revenue and Taxation Code, which requires a "qualified purchaser" to register with the Board of Equalization (BOE) and report and pay use tax directly to the BOE. Under this section, a "qualified purchaser" includes businesses with at least \$100,000 in annual gross receipts from business operations.

IV. NEW LAWS AND OTHER CHANGES (Continued)**I. California "Use Tax" Reporting Requirements (Continued)**

Generally, use tax applies when a person or business in California purchases tangible merchandise to be used, consumed, given away, or stored in this state from a retailer outside of this state who does not collect California tax on the sale. In simpler terms, if sales tax would apply when a particular item is purchased in California, use tax applies when a similar purchase is made from a retailer outside the state and no tax is charged. Use tax is not a new tax. It has been a part of the Revenue and Taxation Code since the 1930's. Only the registration requirement is new under AB x4-18.

A "qualified purchaser" means a person that meets all of the following conditions:

- The person receives at least \$100,000 in gross receipts from business operations per calendar year. Note: Gross receipts is the total of all receipts from both in-state and out-of-state business operations.
- The person is not required to hold a seller's permit or certificate of registration for use tax (under Section 6226 of the Revenue and Taxation Code).
- The person is not a holder of a use tax direct payment permit as described in Section 7051.3 of the Revenue and Taxation Code.
- The person is not otherwise registered with the BOE to report use tax.

A "qualified purchaser" may register for a use tax account by completing a Form BOE-404-A, *Use Tax Registration*, and mailing it to the BOE. While the BOE will attempt to notify qualified purchasers in order to register them, it remains the qualified purchaser's responsibility to register with the BOE.

After filing a paper Form BOE-404-A, the BOE will mail the qualified purchaser an account number and login information. You must then e-file use tax returns with the BOE at: www.boe.ca.gov/electsrv/efiling/sutd.htm.

The return for 2010, along with payment, is due by April 15, 2011. However, the BOE will generally allow a one-month extension to file and pay if you file a completed paper Form BOE-468, Request for Extension of Time in Which to File a Tax Return, at the same time that you e-file the return (the BOE reviews the request with the return and notifies the taxpayer by mail).

J. Enterprise Zone Expansion

During 2010, a larger portion of the San Fernando Valley became eligible for state credits intended to assist local businesses stay and expand in this area.

The State Enterprise Zone has been expanded to include 5,444 acres in the San Fernando Valley.

That area covers land zoned for manufacturing and industrial uses, and certain businesses in Chatsworth, Canoga Park, Northridge, Van Nuys airport and corridor, Warner Center and the Northeast Valley industrial area.

The benefits of being part of an Enterprise Zone:

- employment tax credits of \$37,400 per employee hired, spread over five years;
- 35 percent utility rate reductions over five years from the Department of Water and Power;
- sales and use tax income credits for purchases of machinery and equipment;
- lender interest deduction for loans made to Enterprise Zone businesses; and
- priority bid preferences for Enterprise Zone businesses bidding on state procurement contracts.

V. CALIFORNIA INDEPENDENT CONTRACTOR REPORTING REQUIREMENTS

In an effort to increase child support collection by helping to locate parents who are delinquent in their child support obligation, California State Senate Bill 542 was passed during the 1999-2001 legislative session and signed into law. This law, effective January 1, 2001, requires businesses and government entities to report specified information to the Employment Development Department (EDD) on independent contractors.

Any business or government entity (defined as a "service-recipient") that is required to file a federal Form 1099-MISC for services performed by an independent contractor (defined as a "service-provider") must report. A service-recipient means any individual, person, corporation, association, or partnership, or agent thereof, doing business in this State, deriving trade or business income from sources within this State, or in any manner in the course of trade or business subject to the laws of this State. An independent contractor is defined as an individual who is not an employee of the business or government entity for California purposes and who receives compensation or executes a contract for services performed for that business or government entity either in or outside of California.

You must report to EDD within twenty (20) days of EITHER making payments totaling \$600 or more OR entering into a contract for \$600 or more with an independent contractor in any calendar year, whichever is earlier.

You are required to provide the name of your business, the Federal employer identification number, California employer account number, social security number, address and telephone number.

You are also required to provide independent contractor's (service-provider's) first name, middle initial, last name, social security number, address and start date of contract, along with the amount of contract, contract expiration date, and an indication if an ongoing contract (check box if applicable).

Report independent contractor information on the *Report of Independent Contractors* form (DE 542). To obtain forms and/or information, call (916) 657-0529. You may also contact your local [Employment Tax Customer Service Office](#) listed in your local telephone directory in the State Government section under "Employment Development Department" or access the Internet site at www.edd.ca.gov. For magnetic media filing, please call (916) 651-6945.

VI. EARNED INCOME CREDIT

The law continues to require employers to notify employees of their eligibility for the advance payment of the Earned Income Credit (EIC) through payroll. The EIC is a tax credit available to certain low income workers *even though no income tax withholding is required on their wages*. Eligible employees may elect to receive EIC through reduced federal income tax withholding (or negative federal income tax withholding) throughout the year rather than waiting to claim it on an income tax return. An employee makes the election by submitting a completed Form W-5, Earned Income Credit Advance Payment Certificate, with the employer.

The Form W-5 eligibility certificate verifies to the employer that (1) the employee is eligible for the EIC, (2) the employee has one or more qualifying children, (3) the employee has no other certificate in effect with another employer, and (4) states whether the employee's spouse has an eligibility certificate in effect. Even though persons without children are eligible for the EIC, they are not eligible for the advance payments of EIC. The election can be revoked or modified any time the individual's circumstances change. A new Form W-5 is required for each year the election is in effect.

VII. PAYROLL TAX DEPOSIT SYSTEM

All employers are either federal "monthly depositors" or "semi-weekly depositors". The IRS notifies taxpayers of their status prior to the beginning of each calendar year. Status is determined by reference to the employer's deposit history during a "lookback period." The lookback period for a given calendar year is the 12-month period ending the preceding June 30.

An employer is a monthly depositor for a calendar year if the aggregate amount of employment taxes reported on its quarterly returns, Forms 941, for the four consecutive quarters ended the preceding June 30 is \$50,000 or less. An employer is a semi-weekly depositor if the aggregate is more than \$50,000. Initially, new employers are treated as monthly depositors. A monthly depositor must deposit employment taxes accumulated within the calendar month by the 15th day of the following month. For a semi-weekly depositor, if the depositor's payday is on a Wednesday, Thursday or Friday, taxes must be deposited on or before the following Wednesday. For all other paydays, the deposit is due on the Friday following payday. A special one-day rule applies to any employer which has more than \$100,000 undeposited employment taxes.

The deposit timetable is extended to the immediate next banking day when the deposit obligation falls on a non-banking day. Semi-weekly depositors have additional relief; they have a minimum of three banking days after the end of the semi-weekly period to deposit their taxes. Thus, a semi-weekly depositor with a Friday payroll will have until the following Thursday to deposit employment taxes if the Monday, Tuesday or Wednesday following the payday is a banking holiday.

An employer is treated as having made the required deposit if any shortfall does not exceed the greater of \$100 or two percent of the amount required to be deposited and the shortfall is deposited on or before prescribed make-up dates. For a monthly depositor, the shortfall make-up date is the return due date for the return period in which the shortfall occurs. For a semi-weekly depositor, the shortfall make-up date is the first Wednesday or Friday (whichever is earlier) falling on or after the 15th day of the month in which the deposit must be made.

VIII. EMPLOYEE OR INDEPENDENT CONTRACTOR

Many companies have attempted to avoid taxes by calling their workers independent contractors when in fact they were really employees. The state and federal taxing authorities have been auditing companies to find such abuses. The following is an updated and edited list of factors from the IRS' approach to worker classification. These factors should be considered general guidelines. Certain factors carry more weight than others depending upon specific industry practices.

After 1996, the IRS has the burden of proof on classification of workers if the taxpayer can cite judicial precedent or long-standing industry practice for not treating a worker as an employee. Filing Forms 1099-MISC consistent with the taxpayer's treatment of a worker as a non-employee is imperative.

The IRS is developing criteria on an industry-by-industry basis as to which factors weigh more heavily than others and which should not be applied at all. Even though the new law has placed more responsibility on the IRS to substantiate that independent contractors are employees, we believe that based on the success that the IRS has obtained in its audits on the independent contractor issue, they will continue and intensify their industry classification projects.

A. Worker Classification: The IRS' Approach

1. Do behavioral controls over the worker exist?

Behavioral control focuses on whether the business has the right to direct or control how the work is done, e.g. how the worker performs the specific task for which he was hired. Factors include:

- a. To what extent are instructions given and taken?
- b. What training does the business give the worker?

VIII. EMPLOYEE OR INDEPENDENT CONTRACTOR (Continued)**A. Worker Classification: The IRS' Approach****2. Do financial controls over the worker exist?**

These factors illustrate whether there is a right to control how the business aspects of the worker's activities are conducted:

- c. Can the worker realize a profit or incur a loss?
- d. Is the worker's investment significant?
- e. To what extent does the worker make services available to the general public?
- f. How does the business pay the worker?

3. What type of relationship between the parties exists?

These factors illustrate how the worker and the business perceive their relationship.

- g. Does a written contract exist that describes the relationship the parties intend to create?
- h. Does the business provide the worker with employee-type benefits?
- i. How permanent and ongoing is this relationship?
- j. To what extent are the services performed by the worker a key aspect of the regular business of the company?

B. Factors the IRS Now Considers of Lesser Importance

The IRS de-emphasized its focus on several other factors that were previously used in the old 20-factor test, including:

- 1. Does the client/customer have the right to discharge the worker?
- 2. Does the worker have the right to terminate the relationship?
- 3. Can the worker work part time or is full time required?
- 4. Must the work be performed on the employer's premises?
- 5. Who sets the hours to be worked?
- 6. Must the work be performed in an order or sequence?

Federal law and California law are not the same. California puts less emphasis on common industry practices.

IX. REPORTING OF CASH TRANSACTIONS IN EXCESS OF \$10,000

If your business receives \$10,000 in cash in one transaction or two or more related transactions in a 24-hour period you must file federal Form 8300. In addition, this form may voluntarily be filed for any suspicious transaction, even if it does not exceed \$10,000. The term cash includes a cashier's check, bank draft, travelers check and money order. The civil penalties for failure to comply with the filing and payer reporting requirements are the same as those for failure to file or correctly file Forms 1099. Criminal penalties including up to five years imprisonment are provided for failure (or causing the failure) to file a report, for filing (or causing the filing) of a false or fraudulent report, and for structuring a transaction.

Recipients of reportable cash payments must also provide each payer with an annual written statement by January 31 of the following year containing the name and address of the recipient, the aggregate amount of reportable cash received from that payer during the year, and a notice that the information in the statement is being furnished to the IRS. The statement must be mailed to the payer's last known address.

File Form 8300 by the 15th day after the date of the transaction with the Internal Revenue Service, Detroit Computing Center, P.O. Box 32621, Detroit, Michigan 48232, or with your local IRS office. California also requires that a copy of Form 8300 be sent to: Franchise Tax Board, P.O. Box 1468, Sacramento, California 95812-1468.

X. WHEN HIRING NEW EMPLOYEES

A. Compliance with Immigration and Nationality Act

Every time any person is hired to perform labor or services in return for wages or other remuneration, Form I-9 must be completed. Employees can be requested to present to you an original document or documents that establish identity and employment eligibility within three business days of the date employment begins. As to the form and timing of the request, we strongly suggest you seek the help of your legal advisor, since incorrect steps could result in being found liable for discrimination practices.

There is no associated filing fee for completing Form I-9. Form I-9 must be retained by the employer and made available for inspection by U.S. Government officials. Use the new version revised 08/07/09.

Employers hiring foreign nationals should always check for the individual's I-94 card, which controls the terms of an individual's stay in the country. The I-94 serves as the "work permit". Once it expires, the period of lawful stay in the U.S. is over. (The visa, which establishes a specific length of stay, is permission to present oneself at the border).

Nonimmigrant visa categories are arranged according to proposed activities in the U.S. Some typical work visas are E (persons with essential skills), H1-B (temporary professional worker), L-1 (permits international companies to transfer key employees), O (for outstanding individuals), and TN or NAFTA (for Mexicans or Canadians entering to work in the U.S. for one year as architects, scientists or other professionals).

B. Income Tax Withholding

After the first of the year, ask each new employee to complete the year 2011 Form W-4, the "Employee's Withholding Allowance Certificate" which should be available before the first of the New Year. The amount of income tax that an employer must withhold from wages is based on the filing status and number of withholding allowances claimed by the employee. The employee must provide this information on Form W-4.

The requirement to submit copies of the W-4 to the IRS has been eliminated (see Item IV, Section I.) Also, on November 14, 2005, the IRS announced a new procedure for determining the amount of income tax employers are required to withhold from wages paid for services performed by nonresident alien (NRA) employees within the United States, along with new instructions for use by NRA employees in completing Form W-4.

C. New Employee Registry

As part of federal welfare reform, a new law took effect in California on July 1, 1998 requiring all employers to report all new employees to EDD within 20 calendar days of an employee's first day of work. This information will be cross-matched against child support records to locate parents who are delinquent in their support payments and also will be used to detect unemployment insurance fraud.

The correct reporting form is the DE 34. You may also report the new employee by submitting a copy of the employee's W-4 form, as long as you add the start to work date and your California Employer Account number.

To order forms, call the California New Employee Registry at (916) 322-2835. Or if you have questions concerning reporting requirements, call your local EDD office or the Registry at (916) 657-0529.

XI. CAFETERIA PLANS

A Cafeteria Plan is a separate written plan maintained by an employer for employees that meets the specific requirements of and regulations of Section 125 of the Internal Revenue Code. It provides participants an opportunity to receive certain benefits on a pretax basis. Participants in a cafeteria plan must be permitted to choose among at least one taxable benefit (such as cash) and one qualified benefit. A qualified benefit is a benefit that does not defer compensation and is excludable from an employee's gross income under a specific provision of the Code, without being subject to the principles of constructive receipt. Qualified benefits include:

XI. CAFETERIA PLANS (Continued)

- Accident and health benefits (but not Archer medical savings accounts or long-term care insurance);
- Adoption assistance;
- Dependent care assistance;
- Group-term life insurance coverage;
- Health savings accounts, including distributions to pay long-term care services.

The written plan must specifically describe all benefits and establish rules for eligibility and elections.

A Section 125 Plan is the only means by which an employer can offer employees a choice between taxable and nontaxable benefits without the choice causing the benefits to become taxable. A plan offering only a choice between taxable benefits is not a Section 125 Plan.

The plan may make benefits available to employees, their spouses and dependents. It may also include coverage of former employees, but cannot exist primarily for them. See the questions below for treatment of benefits made available to individuals who are not spouses or dependents of the employee.

Employer contributions to the Cafeteria Plan are usually made pursuant to salary reduction agreements between the employer and the employee in which the employee agrees to contribute a portion of his or her salary on a pre-tax basis to pay for the qualified benefits. Salary reduction contributions are not actually or constructively received by the participant. Therefore, those contributions are not considered wages for federal income tax purposes. In addition, those sums generally are not subject to FICA and FUTA. See Sections 3121(a)(5)(G) and 3306(b)(5)(G) of the Internal Revenue Code.

A flexible spending arrangement (FSA) is a form of cafeteria plan benefit, funded by salary reduction, that reimburses employees for expenses incurred for certain qualified benefits. An FSA may be offered for dependent care assistance, adoption, and medical care reimbursements. The benefits are subject to an annual maximum and are subject to an annual "use-or-lose" rule. An FSA cannot provide a cumulative benefit to the employees beyond the plan year.

The above discussion from the irs.gov website provides only the most basic rules governing a cafeteria plan. For a complete understanding of the rules, see Regulations under Code Section 125.

XII. RECORDS RETENTION

WARNING: Your circumstances may require that you retain records for a longer period of time than shown below. This is a general schedule. Statute of limitations vary from State to State. Companies should have record retention policies for computer files, word processing and e-mail in addition to the healthy and traditional ledger and paper documents. Prior to formalizing a policy, we recommend consulting your attorneys and accountants for further information.

| <u>Retention Period</u> | <u>Retention Period</u> |
|--|--|
| Accident reports and claims (settled cases)..... 7 yrs. | Internal audit reports (in some situations, longer retention periods may be desirable)..... 7 yrs. |
| Accounts payable ledgers and schedules..... 10 yrs. | Inventories of products, materials and supplies 7 yrs. |
| Accounts receivable ledgers and schedules 10 yrs. | First year Permanently |
| Audit reports of accountants Permanently | Invoices to customers 7 yrs. |
| Bank reconciliations..... 1 yr. | Invoices from vendors..... 7 yrs. |
| Canceled checks for important payments, i.e. taxes and purchases of property Permanently | Journals..... Permanently |
| Canceled checks, bank statements and deposit slips..... 10 yrs. | Minute books of directors and stockholders, including by-laws and charter..... Permanently |
| Capital stock and bond records; ledgers, transfer registers, stubs showing issues, record of interest coupons, options, etc..... Permanently | Notes receivable ledgers and schedules..... 7 yrs. (after expiration) |
| Cash receipts and disbursements journals..... Permanently | Payroll records and summaries, including payments to pensioners 7 yrs. |
| Charts of accounts Permanently | Personnel data..... 7 yrs. |
| Contracts and leases 10 yrs. (after expiration) | Petty cash vouchers 3 yrs. |
| Correspondence (routine) with customers or vendors 1 yr. | Physical inventory tags 3 yrs. |
| Correspondence (general)..... 3 yrs. | Plant cost ledgers 7 yrs. |
| Correspondence (legal and important matters only) Permanently | First year Permanently |
| Deeds, mortgages and bills of sale Permanently | Property appraisals by outside appraisers Permanently |
| Depreciation schedules Permanently | Property records - including blueprints, appraisals, and penalties Permanently |
| Duplicate deposit slips 1 yr. | Purchase orders or requisitions (copy)..... 5 yrs. |
| Employment applications and employee contracts 7 yrs. (after termination) | Receiving sheets..... 1 yr. |
| Expense reports..... 7 yrs. | Requisitions..... 1 yr. |
| Financial statements (end-of-year, other months optional) Permanently | Sales records 7 yrs. |
| General and private ledgers (and end-of-year trial balances) Permanently | Scrap and salvage records (inventories, sales, etc.)..... 7 yrs. |
| INS I-9 Forms..... Greater of 3 yrs. From date of hire or 1 year after termination | Stenographer's notebooks..... 1 yr. |
| Insurance documents (1 - 10 yrs. after expiration or settlement) | Subsidiary ledgers 7 yrs. |
| | Tax returns and worksheets, revenue agents' reports and other documents relating to determination of income tax liability..... Permanently |
| | Time reports 7 yrs. |
| | Trade mark registrations..... Permanently |
| | Voucher register, schedules and backup..... 7 yrs. |
| | Warranties and service agreements 3 yrs. (after expiration) |

XIII. USEFUL IRS PUBLICATIONS AND INTERNET ACCESS

| <u>Pub. #</u> | <u>Name/Description</u> | <u>Pub. #</u> | <u>Name/Description</u> |
|---------------|--|---------------|--|
| 15 | <i>Employer's Tax Guide (Circular E)</i> - Coverage of employer responsibilities to withhold, deposit, report, etc. Supplements, Pub. 15-A and 15-B are also available. | 535 | <i>Business Expenses</i> - Information on business expenses, fringe benefits, and employee benefit programs. |
| 334 | <i>Tax Guide for Small Businesses.</i> | 575 | <i>Pension and Annuity Income</i> - Explains how to report pension and annuity income on federal income tax returns. |
| 463 | <i>Travel, Entertainment, and Gift Expenses</i> - Useful information in determining what is Taxable/nontaxable in the areas of travel, entertainment and gifts. | 926 | <i>Household Employer's Tax Guide</i> - Household employers who pay cash wages of \$1,700 or more per year to an employee are liable for social security taxes on the wages. |
| 505 | <i>Tax Withholding and Estimated Tax</i> - Withholding information for employees. Also includes information on making estimated tax payments on Form 1040-ES. | 966 | <i>Electronic Federal Tax Payment System</i> - Answers common questions as to how to pay your federal business taxes. |
| 508 | <i>Educational Expenses</i> - Includes information on what is job-related versus non-job-related. Helpful for employers in determining taxable/nontaxable reimbursement rules. | 1679 | <i>A Guide to Backup Withholding</i> - Information for payors required to do backup withholding. |
| 510 | <i>Excise Taxes</i> - It covers the excise taxes reported on Form 720. | 1779 | <i>Independent Contractor or Employee?</i> |
| | | 3823 | <i>Employment Tax e-file System Implementation and User Guide.</i> |

Information Available on the Internet

| | |
|---|--|
| <i>Federal:</i> | |
| Center for Disease Control | www.flu.gov |
| Department of Health and Human Services | www.hhs.gov |
| Department of Labor | www.dol.gov |
| Immigration and Naturalization Service | www.bcis.gov |
| Internal Revenue Service (Primary Address) | www.irs.gov |
| Internal Revenue Service (Small Business Help) | www.irs.gov/business/index.html |
| Social Security Administration | www.ssa.gov |
| United States Postal Service | www.usps.com |
| <i>California:</i> | |
| Film Commission | www.film.ca.gov |
| Franchise Tax Board | www.ftb.ca.gov |
| Employment Development Department | www.edd.ca.gov |
| State Controller (Unclaimed Property) | www.sco.ca.gov |
| Board of Equalization | www.boe.ca.gov |
| Secretary of State | www.ss.ca.gov |
| <i>Local:</i> | |
| Los Angeles County Clerk | www.lacounty.info |

Energy Research and Credit Information:

| | |
|---|--|
| Federal | www.energystar.gov |
| State, Local and Utility Credit Incentives | www.dsirusa.org |
| Solar Energy Panels | Solar.coolerplanet.com |

Foreign exchange rates at www.federalreserve.gov/releases/h10/hist (1990 to present) or oanda.com.

Consumer information at www.pueblo.gsa.gov.

Stock Market Quotes at www.dailystocks.com or www.moneycentral.msn.com.

General Government Information at www.usa.gov

XIV. TYPES OF PAYMENTS

Below is an alphabetic list of some payments and the forms to file and report them. However, it is not a complete list of all payments, and the absence of a payment from the list does not indicate that the payment is not reportable. For instructions on a specific type of payment, see the separate instructions in the form(s) listed.

| Type of Payment | Report on Form | Type of Payment | Report on Form |
|--|----------------------|---|----------------|
| Abandonment | 1099-A | Income tax refunds, state and local | 1099-G |
| Accelerated death benefits | 1099-LTC | Indian gaming profits paid to tribal members | 1099-MISC |
| Acquisition of control | 1099-CAP | Interest income | 1099-INT |
| Advance earned income credit | W-2 | Tax-exempt | 1099-INT |
| Advance health insurance payments | 1099-H | Interest, mortgage | 1098 |
| Agriculture payments | 1099-G | IRA contributions | 5498 |
| Allocated tips | W-2 | IRA distributions | 1099-R |
| Alternate TAA payments | 1099-G | Life insurance contract distributions | 1099-R |
| Annuities | 1099-R | | 1099-LTC |
| Archer MSAs: | | Liquidation, distributions in | 1099-DIV |
| Contributions | 5498-SA | Loans, distribution from pension plan | 1099-R |
| Distributions | 1099-SA | Long-term care benefits | 1099-LTC |
| Attorney, fees and gross proceeds | 1099-MISC | Medicare Advantage MSAs: | |
| Auto reimbursements, employee | W-2 | Contributions | 5498-SA |
| Auto reimbursements, nonemployee | 1099-MISC | Distributions | 1099-SA |
| Awards, employee | W-2 | Medical services | 1099-MISC |
| Awards, nonemployee | 1099-MISC | Mileage, employee | W-2 |
| Barter exchange income | 1099-B | Mileage, nonemployee | 1099-MISC |
| Bonuses, employee | W-2 | Military retirement | 1099-R |
| Bonuses, nonemployee | 1099-MISC | Mortgage insurance premiums | 1098 |
| Broker transactions | 1099-B | Mortgage interest | 1098 |
| Cancellation of debt | 1099-C | Moving expense | W-2 |
| Capital gain distributions | 1099-DIV | Nonemployee compensation | 1099-MISC |
| Car expense, employee | W-2 | Nonqualified deferred compensation: | |
| Car expense, nonemployee | 1099-MISC | Beneficiary | 1099-R |
| Changes in capital structure | 1099-CAP | Employee | W-2 |
| Charitable gift annuities | 1099-R | Nonemployee | 1099-MISC |
| Commissions, employee | W-2 | Original issue discount (OID) | 1099-OID |
| Commissions, nonemployee | 1099-MISC | Patronage dividends | 1099-PATR |
| Commodities transactions | 1099-B | Pensions | 1099-R |
| Compensation, employee | W-2 | Points | 1098 |
| Compensation, nonemployee | 1099-MISC | Prizes, employee | W-2 |
| Contributions of motor vehicles, boats, and airplanes | 1098-C | Prizes, nonemployee | 1099-MISC |
| Cost of current life insurance protection | 1099-R | Profit-sharing plan | 1099-R |
| Coverdell ESA contributions | 5498-ESA | Punitive damages | 1099-MISC |
| Coverdell ESA distributions | 1099-Q | Qualified plan distributions | 1099-R |
| Crop insurance proceeds | 1099-MISC | Qualified tuition program payments | 1099-Q |
| Damages | 1099-MISC | Real estate transactions | 1099-S |
| Death benefits | 1099-R | Recharacterized IRA contributions | 1099-R, 5498 |
| Accelerated | 1099-LTC | Refund, state and local tax | 1099-G |
| Debt cancellation | 1099-C | Rents | 1099-MISC |
| Dependent care payments | W-2 | Retirement | 1099-R |
| Direct rollovers | 1099-Q, 1099-R, 5498 | Roth conversion IRA contributions | 5498 |
| Direct sales of consumer products for resale | 1099-MISC | Roth conversion IRA distributions | 1099-R |
| Directors' fees | 1099-MISC | Roth IRA contributions | 5498 |
| Discharge of indebtedness | 1099-C | Roth IRA distributions | 1099-R |
| Dividends | 1099-DIV | Royalties | 1099-MISC |
| Donation of motor vehicle | 1098-C | Timber, pay-as-cut contract | 1099-S |
| Education loan interest | 1098-E | Sales: | |
| Employee business expense reimbursement | W-2 | Real estate | 1099-S |
| Employee compensation | W-2 | Securities | 1099-B |
| Excess deferrals, excess contributions, distributions of | 1099-R | Section 1035 exchange | 1099-R |
| Exercise of incentive stock option under section 422(b) | 3921 | SEP contributions | W-2, 5498 |
| Fees, employee | W-2 | SEP distributions | 1099-R |
| Fees, nonemployee | 1099-MISC | Severance pay | W-2 |
| Fishing boat crew members proceeds | 1099-MISC | Sick pay | W-2 |
| Fish purchases for cash | 1099-MISC | SIMPLE contributions | W-2, 5498 |
| Foreclosures | 1099-A | SIMPLE distributions | 1099-R |
| Foreign persons' income | 1042-S | Student loan interest | 1098-E |
| 401(k) contributions | W-2 | Substitute payments in lieu of dividends or tax-exempt interest | 1099-MISC |
| 404(k) dividend | 1099-DIV | Supplemental unemployment | W-2 |
| Gambling winnings | W-2G | Tax refunds, state and local | 1099-G |
| Golden parachute, employee | W-2 | Tips | W-2 |
| Golden parachute, nonemployee | 1099-MISC | Transfer of stock acquired through an employee stock purchase plan under section 423(c) | 3922 |
| Grants, taxable | 1099-G | Tuition | 1098-T |
| Health care services | 1099-MISC | Unemployment benefits | 1099-G |
| Health insurance advance payments | 1099-H | Vacation allowance, employee | W-2 |
| Health savings accounts: | | Vacation allowance, nonemployee | 1099-MISC |
| Contributions | 5498-SA | Wages | W-2 |
| Distributions | 1099-SA | | |
| Income attributable to domestic production activities, deduction for | 1099-PATR | | |