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Criser, Gough, & Parrish

Small Business Alert

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Workers Compensation Coverage Employment Tax Audits Increase

By Michael Engelmann, AAI ARM CWCA

Kansas employers are required by statute to purchase workers compensation to pay for the on-the-job-injuries of their employees. For many employers, workers compensation insurance can be a significant expense. The premium you pay is based on several factors, including your annual payroll. However, there are some types of payroll that can be excluded.

The National Council on Compensation Insurance, Inc. (NCCI) allows payroll exclusions for:

- Pay for owners who have elected out of WC coverage.
- Dismissal pay or severance pay, except for time worked.
- Pay for holidays and vacations.
- Pay for periods of sickness.
- Pay for members of the military during active duty.
- Pay for overtime extra. You can exclude 1/3 of time and one half pay.

Good bookkeeping is the key to being able to identify and exclude these payroll items. Remember this important fact: the insurance company auditor is not your bookkeeper! The auditor is not going to look for your excluded payroll. Keep good records and give the auditor your annual payroll minus the excluded payroll by classification.

1099 Changes

New IRS regulations require that 1099s be issued to corporations for calendar year 2010. The payor is required to have a signed W-9 on file to verify the payee's taxpayer identification number. You can download form W-9 at www.irs.gov.

Alert: The National Research Program (NRP) is being expanded to include employment tax compliance. The IRS intends to use random employment tax audits under the NRP to help measure and close an estimated \$345 billion “tax gap.”

Furthermore, the Treasury Inspector General for Tax Administration (TIGTA) has encouraged the IRS to review misclassifications of employees as independent contractors.

The audits for the NRP will be selected randomly. IRS personnel are being trained to focus on the following issues:

- The character of the payment and the nature of the claim giving rise to the payment.
- Whether the payment is an item of gross income.
- Whether the payment is for employment tax purposes.
- The reporting of the payment and whether any attorneys' fees were paid and how much.

Advisory: The IRS also recently conducted an NRP study of S corporation returns. It selected approximately 5,000 returns filed by S corps for the 2003 and 2004 tax years.

(Source: The Tax Strategist, 11/2009)

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Tips for Builders

To remain profitable and maintain positive cash flows, consider the following:

- Take every available tax credit.
- Save on workers compensation insurance with safety programs.
- Update overhead percentages.
- Hold a weekly collection meeting.
- Manage subcontractors and material suppliers to the project schedule.
- Partner with subcontractors and suppliers to win bids.
- Set up a rolling cash flow projection.
- Close out pending change orders and backcharges weekly.
- Take advantage of the U.S. Small Business Administration's new American Recovery Capital (ARC) Loan Program.

(Source: Michael J. Otis, *Journal of Accountancy*, 12/09)

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2010 Standard Mileage Rates

Beginning on January 1, 2010, the standard mileage rates for the use of a car (also vans, pickups, or panel trucks) will be:

- 50 cents per mile for **business** miles driven
- 16.5 cents per mile driven for **medical** or **moving** purposes
- 14 cents per mile driven in service of **charitable** organizations

The new rates are slightly lower than last year's, reflecting generally lower transportation costs compared to a year ago.

(IR-2009-11, 12/3/09)

Pursuant to federal regulations imposed on practitioners who render tax advice ("Circular 230"), we are required to advise you that any tax advice contained herein is not intended or written to be used for the purpose of avoiding tax penalties that may be imposed by the IRS.

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