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2021 PAYROLL REFERENCE AND INFORMATION RETURN UPDATE

January 2021

What better way to kick off the New Year than to review our annual payroll reference and information return update! Your BMBW team prepared this update to help you plan for 2021. We anticipate that this information will be an invaluable resource to you for the coming year and as always, we are available to answer any questions you may have concerning any of the information presented. **Please visit the Tools section of our website for additional info and instructions on many of the items covered in this update.**

Here are some key points to keep in mind:

- **COVID Related Payroll Provisions –** The Consolidated Appropriations Act, 2021, signed into law on December 27, 2020, is a further legislative response to the coronavirus (COVID-19) pandemic. Please see our summary of the provisions of this act.
- **Nonemployee compensation - Form 1099-NEC** - Beginning with tax year 2020 you should use new Form 1099-NEC to report nonemployee compensation. Form 1099-Misc has been redesigned to reflect changes in reporting requirements.
- **Major revisions to Form W-4.** The IRS completely redesigned Form W-4, beginning with the 2020 tax year, which can be found here 2021 W-4. New employees are required to use the new W-4, but current employees are not required to complete a new W-4, however they may wish to do so to more accurately calculate their withholding.
- **PA Non-Resident Withholding -** Legislation, passed in 2018, requires companies to withhold and pay PA income tax on non-resident income. Withholding is required on payments in excess of $5,000 for PA source compensation and business income (reported on 1099-MISC) and lease payments for PA real estate.
- **Due Dates – The due date for filing W-2s and furnishing 1099-NEC and 1099-MISC to recipients is February 1, 2021**. Pennsylvania and many other states have accelerated their due dates to coincide with the federal filing dates.

We encourage all clients to subscribe to the Boles Metzger Brosius & Walborn PC e-mail newsletter. The newsletter is available at no cost to you, and is full of valuable information on managing your business. Also featured are helpful tips you can use to improve your tax knowledge, and the latest business headlines. If you are interested in receiving our newsletter in your inbox, please contact Deanna Boles at (717) 238-0446, or by e-mail at DeannaBoles@bmbwcpa.com. Finally, if you have questions, please do not hesitate to contact our office. We will be pleased to assist you in any way we can.

Very truly yours,

Boles Metzger Brosius & Walborn PC

2021 PAYROLL REFERENCE AND INFORMATION RETURN UPDATE

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PAYROLL AND PAYROLL TAX UPDATE

Mileage Rates for 2021

Internal Revenue Service's standard mileage rates for **2021** are **(please note decrease):**

1) 56 cents per mile for business use (down from 57.5 cents in 2020);
2) 14 cents per mile driven in service of charitable organizations (same as last year);
3) 16 cents a mile for medical and moving purposes (down from 17 cents in 2020).

Mandatory Postings for Pennsylvania Employers

- The Pennsylvania Department of Labor and Industry has an excellent listing of mandatory employer postings included on its web site at www.dli.state.pa.us.

Hiring New Employees

- You must verify that each new employee is legally eligible to work in the United States. This will include completing the U. S. Citizenship and Immigration Services (USCIS) **Form I-9**, Employment Eligibility Verification. You can get the form from USCIS offices or by calling **1-800-375-5283**, or visit the USCIS Web Site at www.uscis.gov for further information.

- Instructions on how to verify social security numbers can be found in the Resources section of our website.

Form W-4, Employee's Withholding Allowance Certificate

- The W-4 form's certificate that the employee completes was changed beginning in 2020. A copy of the new 2021 W-4 can be downloaded here: https://www.irs.gov/pub/irs-pdf/fw4.pdf

- Employers must request each new employee to complete and sign a new Form W-4. If an employee does not submit a W-4, the employer must withhold at the single rates until a W-4 is submitted. You are not required to have your employees prior to 2020 fill out a new W-4. However, if they wish to make any changes to their withholding, they will need to fill out the 2021 W-4 Form.

- Under certain circumstances (change in marital status or birth of a child for example) an existing employee may need to file an updated W-4 with you.

New-Hire Reporting

- All employers must complete a New Hire Report with the required information and submit it to the Commonwealth of Pennsylvania (or other appropriate state government) within 20 days of hiring a new employee. For more information, the New Hire Reporting Program in Pennsylvania can be reached at 1-888-724-4737 or visit their website at www.cwds.state.pa.us

FICA and Federal Income Tax

- The wage base for 2021 is $142,800 for social security (old age, survivors, and disability insurance) and all wages (no limit) for Medicare (hospital insurance). For social security, the tax rate is 6.2% for both employers and employees. For Medicare, the rate is 1.45% each for employers and employees on all wages.

- Effective January 1, 2013, and going forward, employers will be responsible for withholding an additional 0.9% Medicare tax on an employee's wages and compensation paid in excess of $200,000 in the calendar year.

- All cash tips must be reported for the employee and employer's share of FICA.

- Wages of a husband or wife employed by the other spouse's proprietorship and of a child age 18 or older employed by a parent's proprietorship or partnership are subject to FICA. FICA must be withheld from the employee and be matched by the employer at the same rates as other employees.

Tax Deposits

- Withheld FICA and federal income tax plus the employer's share of FICA are paid to the federal government by depositing the taxes by electronic funds transfer or by telephone.

- The timing and frequency of deposits are determined annually based on the employer's deposit history during the look back period which covers the 12-month period ending the previous June 30^{th}. For 2021, the look back period is July 1, 2019 - June 30, 2020.

- An employer is a monthly depositor for the entire calendar year if the aggregate amount of employment taxes reported for the look back period is $50,000 or less. Conversely, an employer is a semi-weekly depositor for the entire calendar year if the aggregate amount of employment taxes reported for the look back period exceeds $50,000.

- Although the IRS should notify you if they identify you as having a change in your deposit schedule from 2021, you should review your tax liability for the look back period to ensure compliance with the rules.

- **$100,000 Next-Day Deposit Rule** - If you accumulate $100,000 or more in taxes on any day during a monthly or semiweekly deposit period, you must deposit the tax by the next business day, whether you're a monthly or semiweekly schedule depositor.

Federal Unemployment

- The 2020 Form 940 is due February 1, 2021, and will also require you to file Schedule A if you are a multi-state employer or a credit reduction state.

- The Federal Unemployment (FUTA) rate for 2020 remains at .6% (.006) on the first $7,000 of wages per employee. Payments must be made quarterly by EFTPS, if required. They can be sent in with the annual Form 940 if they are under $500.00 for the year.

Employee contribution limitations

- For **2021**, the maximum annual employee contribution to a **health savings account (HSA)** is $3,600 for self-only coverage and $7,200 for family coverage. If you are age 55 or older you may make an additional catch-up contribution of $1,000

- For tax years 2021 and on, the IRS caps the dollar amount on salary reduction contributions to a **health flexible spending account (health FSA)** at $2,750.

- The elective deferral (contribution) limit for employees who participate in **401(k), 403(b), most 457** plans, and the federal government's **Thrift Savings Plan** increases to $19,500 in 2021. The catch-up pre-tax contribution limit available to employees over 50 is $6,500 in 2021.

Form W-2 reporting

- **The Pennsylvania Department of Revenue recently changed the electronic filing requirements threshold for W-2 forms. Employers who file 10 or more W-2 forms with the Department are now required to file those forms electronically for tax year 2019 and forward.**

- The due date for **filing form W-2 with SSA** for 2020 is February 1, 2021. The due date to provide a copy to your employees is also February 1, 2021.

- The IRS has posted the version of its 2020 Form W-2 and the Forms W-2/W-3 instructions on its website, www.irs.gov. The 2020 Form W-2 looks identical to the 2019 version; however, many employers will now be required to report the cost of employer-sponsored health coverage in box 12 of Form W-2, using code DD. This requirement is optional for small employers (those filing fewer than 250 W-2s). **Employers are required to report the amount of qualified sick and family leave wages paid to employees under the FFCRA in box 14 of the Form W-2 or in a statement provided with the Form W-2.**

Pennsylvania Income Tax

- **Legislation, passed in 2018, requires companies that bring out-of-state independent contractors into Pennsylvania for work that pays in excess of $5,000 to withhold Pennsylvania personal income tax**.

- The PA Department of Revenue replaced the paper coupon booklets for filing and paying Employer Withholding Taxes with two electronic filing systems: via the internet and over the telephone. Visit their website at www.etides.state.pa.us for additional information.

- The rate of withholding for Pennsylvania Income Tax for 2020 is continuing at 3.07% of gross wages.

- Employers are required to file a reconciliation return for each quarter, whether you pay the tax semi-weekly, monthly or quarterly. These returns must be received on or before the last day of April, July, October and January for the quarters ending on the last day of March, June, September and December respectively.

Pennsylvania Unemployment Compensation

- The **2021** taxable wage base for employers' contributions **remains $10,000.00** per employee.

- The rate for **employee withholding in 2021 will remain .06 percent** (six-one hundredths of one percent) tax on their **total wages**, equal to 60 cents per $1,000 earned. There is no cap on the gross wages upon which employee withholding is calculated.

- Paper forms are no longer being sent to employers who file electronically. The mandatory electronic filing requirement went into effect January 1, 2014.

Local Services Tax

- The Local Services Tax (LST) is different depending upon the municipality **in which the business is located**. The rate varies from $10 to $156, which must be withheld from every employee. For employees working in a municipality that levies a $10 LST, the amount will be withheld in a lump sum at the beginning of the year. If the municipality levies a tax in excess of $10, the tax will be withheld in equal installments based upon the number of pay periods in a year. Municipalities that levy an LST in excess of $10 must exempt Taxpayers whose total earned income and net profits from that municipality are less than $12,000. Further information, and exemption and refund forms are available at www.newpa.com. Search for Local Services Tax. **Please note that Harrisburg City's rate remains at $156 in 2021 and the annual earned income limit is now $24,500 and will continue for 2021. The weekly rate will be $3 starting on January 1st.**

Local Earned Income Tax

- PA Act 166 uniformly defines earned income and net profits for local income taxes. The definitions of earned income are now essentially the same for PA and for local income taxes.

- Many school districts have passed tax reforms that have changed the earned income tax rate. It is vital that you know the municipality where each employee lives so that your earned income tax withholding is accurate.

- Under Act 32, employers are required to withhold the higher of the employee's resident earned income tax amount (rate of total resident EIT where they reside) vs. the employee's municipal non-resident earned income tax amount (rate of non-resident EIT where they are employed).

- Employers are required to obtain information in the Residency Certification Form for every new employee and employee who has a change of address. Information of the Act 32 Local Earned Income Tax Changes can be found in the Resources section of our website: www.bmbwcpa.com and additional information on Act 32 can be found at www.newpa.com

Non-Payroll Income Tax Withholding

- Non-payroll withholding on payments is to be reported on Form 945, Annual Return of Withheld Federal Income Tax. The Form 945 is due by February 1, 2021. Non-payroll items include backup withholding and withholding for pensions, annuities, IRA's and gambling winnings. Separate deposits will be required for non-payroll withholding. All Form 945 deposits are required to be deposited by EFTPS.

Moving Expenses

- Through 2017, the Internal Revenue Code provided an exclusion for employees' income for qualified moving expense payments and reimbursements made by employers. This fringe benefit will be suspended, except for military-related moving expenses, for tax years 2018 through 2025. Therefore, payments or reimbursements made to employees for all job-related moving expenses on or after January 1, 2018, are taxable to the employee unless military exemption applies. Such amounts are subject to federal income tax withholding, social security, Medicare and FUTA taxes at the time of payment.

INFORMATION RETURN UPDATE

Introduction

We would like to remind you of some important filing and reporting requirements. In order to track unreported income, the Internal Revenue Service has developed a program for cross-referencing information by identification number. Therefore, there has been increasingly stringent enforcement of the regulations requiring the filing of annual information returns and statements to recipients of certain types of payments. These are primarily the 1099 series of forms. Please be sure to file the required forms as further described below.

Frequently Used Forms

- In our experience, the three most frequently used 1099 forms by small businesses and non-profits are the new 1099-NEC, 1099-MISC, 1099-INT and 1099-DIV.

New Form 1099-NEC – Nonemployee compensation

- Beginning with tax year 2020 you should use Form 1099-NEC to report nonemployee compensation, including the following for payments in excess of $600:
    - Services performed by someone who is not your employee (including parts and materials) (box 1);
    - Cash payments for fish (or other aquatic life) you purchase from anyone engaged in the trade or business of catching fish (box 1); or
    - Payments to an attorney for legal services (box 1).

  See the instructions for a detailed explanation of the changes. https://www.irs.gov/instructions/i1099msc

Form 1099-MISC – Miscellaneous Income

- The redesigned Form 1099-MISC, Miscellaneous Income, is used for several types of payments. However, the most frequent use for small businesses and non-profit organizations is to report payments of at least $600 in: Rents (box 1); Prizes and awards (box 3); and Other income payments (box 3). See the instructions for a detailed explanation of the changes. https://www.irs.gov/instructions/i1099msc

Payments to Attorneys

- **Legal Services -** The term “attorney” includes a law firm or other provider of legal services. Attorneys' fees of $600 or more paid in the course of your trade or business are reportable in box 1 of Form 1099-NEC.

- **Gross proceeds paid to attorneys -** Report in box 10 of form 1099-MISC payments that total $600 or more and:
  - Are made to an attorney in the course of your trade or business in connection with legal services, **but not for the attorney’s services, for example, as in a settlement agreement**; and
  - Are not reportable by you in box 1 of Form 1099-NEC.

- The exemption from reporting payments made to corporations does not apply to payments for legal services. Therefore, you must report attorneys' fees (in box 1 of Form 1099-NEC) or gross proceeds (in box 10 of Form 1099-MISC), as described earlier, to corporations that provide legal services.

- You must obtain the attorney’s tax identification number (social security or employer identification) on Form W-9, Request for Taxpayer Identification Number and Certification.

Form 1099-INT

- Form 1099-INT, Interest Income, is used to report, among other things, interest of at least $10 you paid in connection with your trade or business. A typical use would be for interest <u>paid to</u> a person on a <u>loan to the business</u> made by that person.

Form 1099-DIV

- Form 1099-DIV, Dividends and Distributions, is used to report, among other things, dividend payments of $10 or more or payments of $600 or more as part of liquidation.

Penalties

- There are substantial penalties for failure to file these returns. There may be a penalty for non-filing or late filing of information returns of up to $50 <u>per return</u> if you correctly file within 30 days of the due date up to a maximum of $197,500 for small businesses, or $565,000 for business with average gross receipts in excess of $5,000,000 for the most recent 3 tax years ending before the calendar year in which the information returns were due. The $50 per return penalty also applies in various situations for failure to furnish the recipient’s identification number, for reporting incorrect identification numbers for recipients and for failure to timely furnish a statement to a payee.

Additional Information

- Available in the Payroll Tax page of the Tax Tools section of our website www.bmbwcpa.com is a *Guide to Information Returns* for your reference. This chart explains which forms to use for the various types of payments that must be reported. Generally, a copy of the information return that is filed with the Internal Revenue Service is sent to the payee as the required annual statement.

- Also available on our website is a copy of the Internal Revenue Service's instructions for where to file your information returns. Please note that the address for filing paper returns is different than for magnetic reporting.

- Generally, a Form 1096 (Annual Summary and Transmittal of U.S. Information Returns) must be used to summarize and transmit the required Forms 1099 to the Internal Revenue Service. A separate Form 1096 must be used for each type of Form 1099.

- **The recipient's copy of Form 1099 must be issued to the recipient by February 1, 2021**. The Form 1096 and the Internal Revenue Service copy of Form 1099-NEC must be filed by February 1, 2021 whether you are paper filing or filing electronically, if you are reporting nonemployee compensation. Otherwise, for all other reported 1099 payments, file by March 1, 2021, if you file on paper, or March 31, 2021, if you file electronically.

- If you are required to file 250 or more information returns, you must file electronically using the FIRE (Filing Information Returns Electronically) System at http://fire.irs.gov. The 250-or-more requirement applies separately to each type of form. For example, if you must file 500 Forms 1099-MISC and 10 Forms 1099-DIV, you are required to file the 1099-MISC Forms electronically.

- If you are required to file information returns electronically, but cannot comply, you may request a hardship waiver on Form 8508, Request for Waiver from Filing Information Returns Electronically.

- We recommend that any independent contractors, and others for whom you might have to file an information return, complete a Form W-9 as soon as you begin doing business with them.

Summary

In summary, the rules are being enforced more stringently and there are essentially no exceptions. You must comply with the requirements or you will be penalized.

<u>Affordable Care Act Information</u>

The Affordable Care Act (ACA) contains responsibilities for employers. **While the Individual Mandate (Shared Responsibility Payment) was repealed by the TCJA for tax years after 2018, the employer mandate and reporting requirements were unchanged**.

There are **three** main requirements for employers in 2020. They include:

1. Offering health care coverage and penalties for employers that do not offer coverage.
2. Reporting on W-2's
3. Reporting to employees/IRS

<u>Offering insurance and Penalties</u>
If you employ at least 50 full-time employees, you may be subject to the employer mandate that was enacted as part of the Affordable Care Act (ACA).

Specifically, you are potentially subject to the excise tax, if any of your full-time employees are certified, as described below, as having received "health care assistance," and you either: (1) do not offer health care coverage for all of your full-time employees; or (2) offer "minimum essential" coverage under your group health care plan that either is not "affordable," or does not provide "minimum value" to your employees.

<u>Reporting on W-2's</u>
Employers report the total cost (both employer and employee) of the employer-provided healthcare on <u>W-2's using box 12, code DD; if an employer issued at least 250 W-2's</u> in the prior year. The exception for employers who issued fewer than 250 W-2's is still in effect. This means that those employers with <u>fewer than 250 W-2's DO NOT need to put this information on the W-2</u>.

<u>Reporting to the IRS</u>
The IRS has issued the 2020 forms and instructions that will be used to comply with the reporting requirements for the Affordable Care Act. These forms are the 1094B or 1094C and the 1095B or the 1095C. The filing requirements are based on the employer's health plan and number of employees. A small employer is one with less than 50 full-time employees (or equivalents).

EMPLOYER SIZE	EMPLOYER HEALTH PLAN	EMPLOYER FILES 1095B/1094B	EMPLOYER FILES 1095C/1094C
Small Employer	None	No	No
Small Employer	Insured	No (insurer files)	No
Small Employer	Self-insured	Yes	No
Large Employer	None	No	No
Large Employer	Insured	No (insurer files)	Yes
Large Employer	Self-insured	Generally, No*	Yes

*Large employers that are self-insured usually use a company to manage their self-insurance that company would file the forms.

<u>COVID Related Payroll Tax Provisions</u>

The Consolidated Appropriations Act, 2021 (the CAA, 2021), signed into law on December 27, 2020, is a further legislative response to the coronavirus (COVID-19) pandemic. The provisions are found in two of the several acts included in the CAA, 2021, specifically, (1) the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (the TCDTR) and (2) the COVID-related Tax Relief Act of 2020 (the COVIDTRA).

Extensions and modifications of earlier payroll tax relief.

***Employee Retention Credit* -** The TCDTR extends the CARES Act employee retention credit, allowed against the employer portion of the Social Security (OASDI) payroll tax or of the Railroad Retirement tax, for qualified wages paid to employees during the COVID-19 crisis. Under the extension, qualified wages must be paid before July 1, 2021 (instead of January 1, 2021). Additionally, beginning on January 1, 2021, the credit rate is increased from 50% to 70% of qualified wages. and qualified wages are increased from $10,000 for the year to $10,000 per quarter. Many other rules are also relaxed. And the TCDTR makes some retroactive clarifications and technical improvements to the credit as initially enacted.

***Families First Coronavirus Response Act Credit (Covid Sick Pay)* -** The COVIDTRA extends (1) the credits provided by the Families First Coronavirus Response Act (FFCRA) against the employer portion of OASDI and Railroad Retirement taxes for qualifying sick and family paid leave and (2) the equivalent FFCRA-provided credits for the self-employed against the self-employment tax. Under the extension of the employer credits, wages taken into account are those paid before April 1, 2021 (instead of January 1, 2021). Under the extension of the credits for the self employed, the days taken into account are those before April 1, 2021 (instead of January 1, 2021).

The COVIDTRA also makes retroactive clarifications of (1) the FFCRA paid leave credits that were extended as discussed above, (2) the exclusion of qualifying paid leave in calculating the employer portion of Railroad Retirement taxes and (3) and the increase in the amount of the FFRCA paid leave credits against the employer portion of Railroad Retirement taxes by the amount of the Medicare payroll taxes on qualifying paid leave.

***Presidentially ordered deferral of employee OASDI* -** Additionally, the COVIDTRA directs IRS to extend the Presidentially ordered deferral of the employee’s share of OASDI and Railroad Retirement taxes. As first provided by IRS, the deferral was of taxes to be withheld and paid on wages and other compensation (up to $4,000 every two weeks) paid in the period from September 1, 2020 to December 31, 2020 so that the taxes were instead withheld and paid ratably in the period from January 1, 2021 to April 30, 2021. Under the deferral, the period over which the deferred-from-2020 taxes are ratably withheld and paid is extended to all of 2021 (instead of the four-month period ending on April 30, 2021).

***Employee benefits and deferred compensation* -** The TCDTR provides that expenses for business-related food and beverages provided by a restaurant are fully deductible if they are paid or incurred in calendar years 2021 or 2022, instead of being subject to the 50% limit that generally applies to business meals.

The TCDTR temporarily allows (1) carryovers and relaxed grace period rules for unused flexible spending arrangement (FSA) amounts, whether in a health FSA or a dependent care FSA, (2) the raising of the maximum eligibility age of a dependent under a dependent care FSA from 12 to 13 and (3) prospective changes in election limits set forth by a plan (subject to the applicable limits under the Code).