

This Month:

- ◆ Retirees Not Eligible for FICA Refund
- ◆ SS Benefits and Earnings Threshold Increase
- ◆ Substantiating Charitable Contributions
- ◆ Reimbursing Independent Contractors
- ◆ Changing Entities?
- ◆ Unclaimed Property Laws

Retirees Not Eligible for FICA Refund



A recent IRS information letter notes that retirees cannot be reimbursed for FICA taxes that they paid on wages earned for part time work, even though their Social Security benefits will not increase as a result of this income. The IRS points out that the term "employment" is defined "as any service, of whatever nature, performed by an employee for the person employing him." The law does not exempt wages received during retirement from FICA taxes. Thus, absent qualifications for another exemption, wages paid to a retiree receiving Social Security benefits are subject to FICA.

SS Benefits and Earnings Threshold Increase

The Social Security Administration has announced that monthly Social Security and Supplemental Security Income (SS/SSI) benefits will increase 5.8 percent in 2009 - the largest increase since 1982. The 5.8 percent Cost-of-Living Adjustment will begin with January benefits. Increased payments to more than 7 million SSI beneficiaries will begin on December 31.

Also to take effect in January is an increase in the maximum amount of earnings subject to the Social Security tax. The taxable maximum will increase to \$106,800 from \$102,000. Of the estimated 164 million workers who will pay Social Security taxes in 2009, about 11 million will pay higher taxes as a result of this increase.

Substantiating Charitable Contributions

In order to substantiate a charitable contribution, a taxpayer must maintain one of the following: (1) a canceled check; (2) a receipt or letter from the donee charitable organization showing the name of the donee, the date, and the amount of the contribution; or (3) other reliable records showing the name of the donee, the date, and the amount of the contribution.



The last requirement can often be satisfied with a diary. And, of course, contributions of \$250 or more require a receipt from the donee organization.

In one case the Tax Court denied the taxpayer a deduction for \$350 of "out-of-hand" contributions at church services, etc. because he had no substantiation. The Court noted taxpayers are required to keep records of charitable contributions of money.

For taxable years beginning 2007 (for calendar-year taxpayers), you'll need a canceled check or receipt from the organization for all money contributions.

Reimbursing Independent Contractors

Whether or not an independent contractor is separately reimbursed for his/her expenses depends on industry practice and the agreement between you and the contractor. If you simply cut the contractor a check based on a line on his/her bill, it's taxable income to the contractor (and reportable on his/her 1099) and he/she will have to deal with tax issues. On the other hand, if he/she accounts to you with adequate records or similar evidence (e.g., a detailed expense report, receipts where necessary, etc.) then any reimbursement is not income to the contractor and deductible by you as auto expense, meals, etc. If meals and entertainment are involved, the approach taken will have important tax consequences. If the contractor does not provide you with an adequate accounting, all of the meals and entertainment expenses will be deductible as compensation paid - but if he/she makes a full accounting, you only get to deduct half of the meals and entertainment expense.



Changing Entities?



The end of the year is a good time to consider making a tax entity change. If you're thinking of switching, the first person you should talk to is your Padgett

Representative to find out if changing makes sense for your business and to discuss the potential tax consequences. Some changes have few or no tax implications, but others can be costly. Incorporating a sole proprietorship or partnership should be tax free if done correctly, but failure to adhere to the rules can trigger tax. Get good advice before making a move and then follow the advice carefully.

Unclaimed Property Laws

Unclaimed wages are a form of abandoned property that may become the property of the state. If your business has hourly workers or a transient workforce you are most likely to have unclaimed wages.

All states have laws on unclaimed property; most consider wages abandoned after one year. Employers holding outstanding wages must file reports and turn over the abandoned wages to the appropriate state agency. Generally, reports must be filed annually and must state the employee's name, last known address, description and amount of the abandoned wages, date the wages became payable, and the date of the last transaction with the employee. You must attempt to contact the employee and must also take steps to prevent the unclaimed wages from becoming abandoned. Penalties are provided for non-compliance.

Unclaimed property should be remitted to the state of the last known address of the employee. This may or may not be the state in which your business is located. If there is no address, the funds should be returned to the state in which you are incorporated.

While unclaimed wages are likely your primary concern, you must also consider other items that need to be included in an abandoned property report. Examples include commission checks that are still outstanding, dividends paid to shareholders, accounts payable to vendors, or unredeemed gift certificates.

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Padgett Business Services is dedicated to meeting the tax, government compliance, profit & financial reporting and payroll needs of businesses with fewer than 20 employees in the retail and service sector of the economy. This publication suggests general business planning concepts that may be appropriate in certain situations. It is designed to provide complete and accurate information to the reader. However, because of the complexities of the tax law and the necessity of determining whether the material discussed herein is appropriate to your business, it is important you seek advice from your Padgett office before implementing any of the concepts suggested in this newsletter.

PENALTY NOTICE: As required by U.S. Treasury regulations, you are advised that any written tax advice contained herein was not written or intended to be used (and cannot be used) by any taxpayer for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code.