THE SMALLBIZ BUILDER

PADGETT THE SMALL BIZ PROS

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THIS MONTH:

Employees vs. Independent Contractors

It's crucial to know whether your workers are employees or independent contractors. Big dollars may be at stake in the form of federal and state assessed penalties resulting from misclassification. The validity of your company's pension plan may also be at stake.

A periodic review of the status of your workers to see if they are properly classified is critical, but the process isn't easy due to the complexity of the issue. To determine whether there is an employer - employee relationship or a business relationship, there are some factors to consider: the behavioral and financial control over the worker, ownership of the tools, the permanency of the relationship (is there a contract?), work location and work hours. There is no litmus test for exactly how many factors must be satisfied, nor are the factors uniformly applied.

If you'd like to discuss these complex rules with us and see how they apply to your business in order to make sure that none of your workers are misclassified, please call our office to arrange for an appointment.

Taxable or Non-Taxable Income?

There are situations when certain types of income are only partially taxed or not taxed at all. Some examples of non-taxable Income are:

1. Adoption expense reimbursements for qualifying expenses,
2. Child support payments,
3. Gifts, bequests and inheritances,
4. Non cash employer gifts (holiday turkey),
5. Workers' compensation benefits,
6. Meals and lodging for the convenience of your employer,
7. Compensatory damages awarded for physical injury or physical sickness,
8. Welfare benefits,
9. Economic recovery payments, and
10. Cash rebates from a dealer or manufacturer

Some income may be taxable under certain circumstances, but not taxable in other situations. Examples of items that may or may not be included in your taxable income are:

1. **Life Insurance** If you surrender a life insurance policy for cash, you must include in income any proceeds that are more than the cost of the life insurance policy. Life insurance proceeds which were paid to you because of the insured person's death are not taxable unless the policy was turned over to you for a price.
2. **Scholarship or Fellowship Grant** If you are a candidate for a degree, you can exclude amounts you receive as a qualified scholarship or fellowship. Amounts used for room and board do not qualify.
3. **Non-cash Income** Taxable income may be in a form other than cash. One example of this is bartering, which is an exchange of property or services. The fair market value of goods and services exchanged is fully taxable and must be included as income on Form 1040 of both parties.

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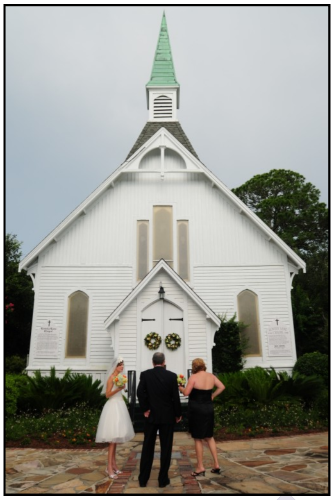
Name Change as a Result of Marriage or Divorce



If you changed your name as a result of marriage or divorce you'll want to take the necessary steps to ensure the name on your tax return matches the name registered with the Social Security Administration (SSA). A mismatch between them can cause problems in the processing of your return. Complete Form SS-5, *Application for a Social Security Card* at your local SSA office and provide proof of your legal name change if any of the following apply:

1. You took your spouse's last name or if both spouses hyphenate their last names.
2. If you were recently divorced and changed back to your previous last name.

If you adopted your spouse's children after getting married, you'll want to make sure the children have a Social Security Number (SSN). Taxpayers must provide an SSN for each dependent claimed on a tax return. For adopted children without SSNs, the parents can apply for an Adoption Taxpayer Identification Number (ATIN) by filing Form W-7A, *Application for Taxpayer Identification Number* for Pending U.S. Adoptions with the IRS.

Title Matters: Who Owns the Car?

If your company is paying for a car, make sure you title it in the company's name. If the company writes the check but you put the title in your own name, the IRS is almost surely going to deny the business a depreciation deduction. (This doesn't apply to sole proprietors as you and your business aren't separate entities.) Your company may also lose deductions for insurance, gas, maintenance, etc. Of course, even if the car is in the company's name, you still have to keep records of the business usage. But if you don't take the first step, you'll have an uphill battle. By the way, the same will likely be true for other business assets.

Write-off for Heavy SUVs Used Entirely for Business

Under the 2010 Tax Relief Act, the bonus first-year depreciation percentage is 100% (instead of 50%) for bonus-depreciation eligible "qualified property" that is generally (1) placed in service after Sept. 8, 2010 and before Jan. 1, 2012, and (2) acquired by the taxpayer after Sept. 8, 2010 and before Jan. 1, 2012. Qualified property includes autos and trucks which are 5-year MACRS property and thus qualify for bonus depreciation. For example, a taxpayer buys and places into service a new $50,000 heavy SUV on October 1, 2010 and uses it 100% for business, may write off its entire cost of $50,000 on his 2010 tax return.

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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.