

THIS MONTH:

- ◆ **Employees vs. Independent Contractors**
- ◆ **Taxable or Non-Taxable Income?**
- ◆ **Missing Your W-2?**
- ◆ **New IRS Form 1099-K, Merchant Card and Third Party Network Payments**
- ◆ **Title Matters: Who Owns the Car?**

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 risk.

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.

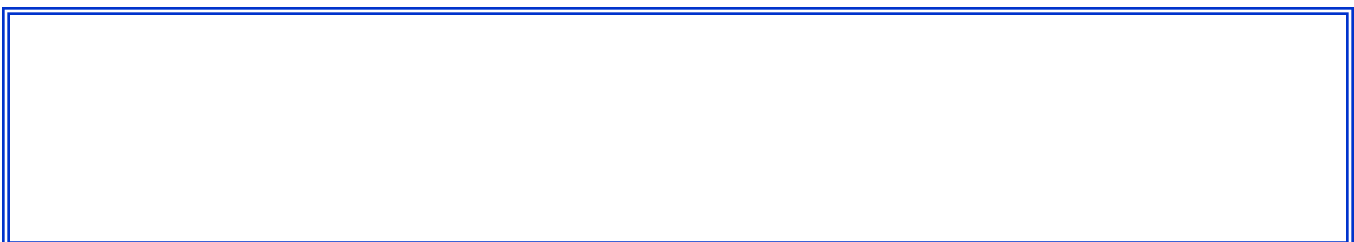
Taxable or Non-Taxable Income?

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.



Missing Your W-2?

Taxpayers who did not receive Form W-2 (*Wage and Tax Statement*) from an employer by 1/31/12 should;

- ◆ Contact the employer about its mailing and verify the address for the employer to reissue
- ◆ If the form is not received by 2/14/12, call the IRS and provide the employer's information, dates of employment, and estimated wage information.
- ◆ File your return by 4/17/12 and attach Form 4852 (*Substitute for Form W-2, Wage and Tax Statement*) or request an extension.
- ◆ On occasion, you may receive your missing W-2 after you file your return using Form 4852, and the information may be different from what you reported on your return. If this happens, you must amend your return by filing a Form 1040X, Amended U.S. Individual Income Tax Return.

New IRS Form 1099-K, *Merchant Card and Third Party Network Payments*

- ◆ In an effort by the IRS to close the “tax gap”, the Form 1099-K was created to report income from credit card sales/electronic sales. Due to increasing controversy, in late 2011, the IRS delayed the 1099-K reporting requirement until 2012. The current law requires that the third party processor (banks, PayPal) report this information to both the taxpayer and the IRS. Stay tuned as changes are likely in 2012 regarding 1099-K reporting.

HOW THIS AFFECTS YOUR 2011 TAX RETURN:

- ◆ Businesses and individuals MAY receive a Form 1099-K from a bank for the tax year 2011. Due to the delayed reporting requirements, this form does not need to be reported on your 2011 tax return.
- ◆ Businesses and individuals MAY receive a Form 1099-K from “payment processors” (Amazon, PayPal) for the tax year 2011. If you collected more than \$20,000 or had greater than 200 transactions through these “payment processors” during the year, you may receive a Form 1099-K. Report this amount on the appropriate line of your tax return.
- ◆ If you pay independent contractors using Form 1099MISC, any amounts paid to them via credit card should not be included on the 1099MISC, but will instead will be reported on the Form 1099-K by the bank/payment processor.

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.



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