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Tax & Business Alert

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STILL IMPORTANT: THE TAX IMPACT OF BUSINESS TRAVEL

With conference calls and Web meetings increasingly prevalent, business travel isn't what it used to be. But if your company is still sending employees out on the road, it remains important to understand the tax ramifications.

FRINGE BENEFITS

Generally, for federal tax purposes, a company may deduct all ordinary and necessary expenses paid or incurred during the tax year in carrying on any trade or business. This includes travel expenses that aren't deemed lavish or extravagant.

For employees, travel expenses are typically considered a "working condition fringe benefit" and, therefore, not included in gross income. Working condition fringe benefits are any property or service provided to an employee to the extent that, if he or she paid for the property or service, it would be tax-deductible.

ACCOUNTABLE PLAN

Under the Internal Revenue Code, an advance or reimbursement for travel expenses made to an employee under an "accountable plan" is deductible by the employer and not subject to FICA and income tax withholding. In general, an advance or reimbursement is treated as made under an accountable plan if an employee:

- Receives the advance or reimbursement for a deductible business expense paid or incurred while performing services for his or her employer,
- Accounts for the expense to his employer within a reasonable period of time and in an adequate manner, and
- Returns any excess reimbursement or allowance within a reasonable period of time.

By contrast, an advance or reimbursement made under a "nonaccountable plan" isn't considered a working condition fringe benefit — it's treated as compensation. Thus, the amount is fully taxable to the employee, and subject to FICA and income tax withholding by the employer.

TRAVEL STATUS

Although business transportation — going from one place to another without an overnight stay — is deductible, attaining "business travel status" fully opens the door to substantial tax benefits. Under business travel status, the entire cost of lodging and incidental expenses, and 50% of meal expenses, is generally deductible by the employer that pays the bill. What's more, those amounts don't equate to any taxable income for employees who, as mentioned, are reimbursed under an accountable plan.

So how does a business trip qualify for business travel status? It must involve overnight travel; an employee traveling away from his or her tax home; and a temporary trip undertaken solely, or primarily, for ordinary and necessary business reasons.

Bear in mind that "overnight" travel doesn't necessarily mean an employee must be away from dusk till dawn. Any trip that's long enough to require sleep or rest to enable the taxpayer to continue working is considered "overnight."

Furthermore, there's an exception under which local, "nonlavish" lodging expenses incurred while not away from home overnight on business may be deductible if all facts and circumstances so indicate. One factor specified in the regs is whether the employee incurs the expense because of a bona fide employment condition or requirement.

CRUCIAL DETAILS

Even if your company has pumped the brakes on business trips, knowing the tax rules can save you valuable dollars on those "must go" travel engagements. We can help you with the crucial details — and particularly in setting up an accountable plan if you don't already have one. ■

HELP PREVENT TAX IDENTITY THEFT BY FILING EARLY

If you're like many Americans, you might not start thinking about filing your tax return until close to this year's April 17 deadline. You might even want to file for an extension so you don't have to send your return to the IRS until October 15.

But there's another date you should keep in mind: the day the IRS begins accepting 2017 returns (usually in late January). Filing as close to this date as possible could protect you from tax identity theft.

WHY IT HELPS

In an increasingly common scam, thieves use victims' personal information to file fraudulent tax returns electronically and claim bogus refunds. This is usually done early in the tax filing season. When the real taxpayers file, they're notified that they're attempting to file duplicate returns.

A victim typically discovers the fraud after he or she files a tax return and is informed by the IRS that the return has been rejected because one with the same Social Security number has already been filed for the same tax year. The IRS then must determine who the legitimate taxpayer is.

Tax identity theft can cause major complications to straighten out and significantly delay legitimate refunds. But if you file first, it will be the tax return filed by a potential thief that will be rejected — not yours.

WHAT TO LOOK FOR

Of course, in order to file your tax return, you'll need to have your W-2s and 1099s. So another key date to be aware of is January 31 — the deadline for employers to issue 2017 W-2s to employees and, generally, for businesses to issue 1099s to recipients of any 2017 interest, dividend or reportable miscellaneous income payments. So be sure to keep an eye on your mailbox or your employer's internal website.

ADDITIONAL BONUS

An additional bonus: If you'll be getting a refund, filing early will generally enable you to receive and enjoy that money sooner. (Bear in mind, however, that a law requires the IRS to hold until February 15 refunds on returns claiming the earned income tax credit or refundable child tax credit.) Let us know if you have questions about tax identity theft or would like help filing your 2017 return early. ■

OWNER-EMPLOYEES NEED TO STAY UP TO SPEED ON EMPLOYMENT TAXES

Keeping up with the complexity of the Internal Revenue Code is challenging for an individual and even more so for a business owner. But, if you're someone who handles both roles — an owner-employee — the difficulty level is particularly high. Nonetheless, it's important to stay up to speed on your specific obligations. As you're no doubt aware, much depends on the structure of your company.

PARTNERSHIPS AND LLCs

Generally, all trade or business income that flows through to you for income tax purposes is subject to self-employment taxes — even if the income isn't actually distributed to you. But such income may not be subject to self-employment taxes if you're a limited partner or member of a limited liability company whose ownership is equivalent to a limited partnership interest. Whether the additional 0.9% Medicare tax on earned income or the 3.8% net investment income tax (NIIT) applies also is complex to determine.

S CORPORATIONS

Under an S corporation, only income you receive as salary is subject to employment taxes and, if applicable, the 0.9% Medicare tax. To reduce these taxes, you may want to keep your salary relatively — but not unreasonably — low and increase your distributions of company income (which generally isn't taxed at the corporate level or subject to the 0.9% Medicare tax or 3.8% NIIT).

C CORPORATIONS

For C corporations, only income you receive as salary is subject to employment taxes. If applicable, the 0.9% Medicare tax may be due as well. Nevertheless, you may prefer to take more income as salary (which is deductible at the corporate level) as opposed to dividends (which aren't deductible at the corporate level, are taxed at the shareholder level and could be subject to the 3.8% NIIT) if the overall tax paid by both the corporation and you would be less. *Warning*: The IRS is cracking down on misclassification of corporate payments to shareholder-employees, so tread carefully.

LATEST INFO

As this article went to press, tax law reform efforts were underway that may affect some of this article's content. Please contact our firm for the latest information. ■

TAX CALENDAR

January 16

Individual taxpayers' final 2016 estimated tax payment is due.

January 31

File 2017 Forms W-2 ("Wage and Tax Statement") with the Social Security Administration and provide copies to your employees.

- File 2017 Forms 1099-MISC ("Miscellaneous Income") reporting nonemployee compensation payments in box 7 with the IRS and provide copies to recipients.
- Most employers must file Form 941 ("Employer's Quarterly Federal Tax Return") to report Medicare, Social Security, and income taxes withheld in the fourth quarter of 2017. If your tax liability is less than $2,500, you can pay it in full with a timely filed return. If you deposited the tax for the quarter in full and on time, you have until February 12 to file the return. Employers who have an estimated annual employment tax liability of $1,000 or less may be eligible to file Form 944 ("Employer's Annual Federal Tax Return").
- File Form 940 ("Employer's Annual Federal Unemployment [FUTA] Tax Return") for 2017. If your undeposited tax is $500 or less, you can either pay it with your return or deposit it. If it is more than $500, you must deposit it. However, if you deposited the tax for the year in full and on time, you have until February 12 to file the return.
- File Form 943 ("Employer's Annual Federal Tax Return for Agricultural Employees") to report Social Security, Medicare, and withheld income taxes for 2017. If your tax liability is less than $2,500, you can pay it in full with a timely filed return. If you deposited the tax for the year in full and on time, you have until February 12 to file the return.
- File Form 945 ("Annual Return of Withheld Federal Income Tax") for 2017 to report income tax withheld on all nonpayroll items, including backup withholding and withholding on pensions, annuities, IRAs, etc. If your tax liability is less than $2,500, you can pay it in full with a timely filed return. If you deposited the tax for the year in full and on time, you have until February 12 to file the return.

February 28

File 2017 Forms 1099-MISC with the IRS.

March 15

2017 tax returns must be filed or extended for calendar-year partnerships and S corporations. If the return is not extended, this is also the last day to make 2017 contributions to pension and profit-sharing plans.

4 FINANCIAL PLANNING TIPS FOR SECOND MARRIAGES

Every year, a substantial percentage of weddings aren't first-time nuptials but second (or subsequent) marriages. Here are four tips to help such partners better manage the situation:

1. Take inventory. Identify the assets and liabilities each person brings to the union. If one spouse has significant debt, how will the couple manage it? Or if one spouse holds significant savings or investments, both partners should decide whether ownership changes should occur.

2. Complete any paperwork. For instance, if a former spouse remains listed as the beneficiary of a retirement account, he or she may ultimately receive the asset — even if the account owner intended it to go to a new spouse. (Note: In community property states, a former spouse may still be entitled to a portion of the account.) Therefore, beneficiary change documents may need to be executed.

3. Consider executing new wills. This is particularly true if one spouse would like children from a previous marriage to receive, for example, a pre-existing business or personal property. If these wishes aren't spelled out, the assets may not pass down as intended.

4. Seek professional advice. Laws regarding divorce and remarriage vary by state. Consult an attorney and contact our firm to discuss tax and financial ramifications. ■

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