

# **Payroll Trends**

## **4th Quarter 2008**

### **W-4/W-5**

As required in prior years, a new Form W-4 must be secured by February 15 from each employee claiming exemption from federal tax withholding, or withholding must be made by the employer based on single with zero exemptions.

Likewise, employees eligible for advanced earned-income tax credits must submit a new W-5 each year for eligibility.

### **Daylight Saving Time**

Daylight Saving Time will begin on Sunday, March 8, 2009. Employees working overnight during the time change will have their payroll calculations impacted. Federal and state laws, as well as labor agreements and company policy could all impact the calculation.

### **New 1099 Dates**

The Emergency Economic Stabilization Act of 2008 changed the due date for furnishing the recipients their copy of certain Form 1099s. Form 1099-B (Broker and Barter Proceeds) and Form 1099-S (Real Estate Proceeds) must now be furnished to recipients by February 17, 2009. Form 1099-MISC (Miscellaneous Income) with payments reported in Box 8 (substitute payments) or Box 14 (Attorney Payments) must also be provided by February 17, 2009. For all other 1099-MISC reporting, copies to recipients are still due by February 2, 2009.

### **Vehicle FMV**

Employers can use the 2009 standard mileage rate shown on page 1 to determine the taxable amount of personal use of company vehicles only if the vehicle FMV is \$15,000 or less. The limit for trucks is reduced to \$15,200. Fleet owners may use \$19,000 for cars and trucks. For more information, see the IRS web site, [www.irs.gov](http://www.irs.gov).

### **Revised FMLA Rules**

The U.S. Department of Labor (DOL) has issued their final revised regulations under the Family and Medical Leave Act, effective January 16, 2009. There are new rules for military related situations, clarification of "joint" employment responsibilities, break in service rules, notice requirements and consequences, and many other changes, comprising 750 pages. These are the first modifications to the FMLA rules in over 13 years. If your organization is covered by FMLA, go to the DOL web site for more information.

### **Free Resources**

The IRS has two tax calendars available to assist employers with tracking payroll deadlines. Publication 509 is a tax calendar to assist with knowing when tax deposits and forms are due.

Publication 1518 is a wall calendar designed specifically for the small business. This is a valuable "all purpose" information guide. Either can be ordered by going to [www.irs.gov/formspubs/index.html](http://www.irs.gov/formspubs/index.html).

### **W-2 Health Care Reporting**

The Senate Finance Committee has requested public comment on proposed legislation to require W-2 reporting of an employee's health care cost. The intent is to inform employees of the cost and hopefully encourage them to be more efficient in the use of their health care resources. Most business groups oppose requiring employers to be responsible for further reporting.

### **SUI Claims**

New rules have been issued by the Department of Labor (DOL) for claim filed by workers that may have been employed in more than one state. The rule is effective January 6, 2008, and amends the current practice of a worker filing a combined wage claim in a state paying a higher benefit. The new rule will prevent shopping for higher benefits and require claims be filed in the state with base period wages and employment.

### **New Transportation Fringe Benefit**

The Emergency Economic Stabilization Act of 2008 added a new Transportation Fringe Benefit for 2009. The new benefit is for qualified bicycle commuting. The employer may reimburse an employee for reasonable expenses for the purchase, repair, improvement and storage of a bicycle regularly used for travel from the employee residence to the place of employment. The maximum benefit is \$20 per month for any month the bicycle is used substantially for travel to work.

### **Payroll Compliance**

With the continuing passage of new legislation impacting employers through payroll-related activities, the ability to manage the constant changes gets more complex for employers each year. This is in addition to all the other pressures every business faces in meeting their core business objectives.

We are a professional resource available to partner with you to help with compliance in this area. We would like the opportunity to discuss our services with you and show the efficiency we can provide.

### **DHS**

In 2007, the Department of Homeland Security (DHS) proposed to use the Social Security Administration (SSA) W-2 no-match letter for immigration enforcement. In August, 2007, a U.S. District Court in California issued an injunction against implementing the DHS rules and that injunction is still in force.

DHS has now reissued the earlier regulations as new "final" regulations with no substantial changes. They provide steps an employer must take after receiving a no-match letter or the

employer may be construed as having knowledge of illegal employment if the DHS finds that to be the case.

No-match letters have always been used by the SSA to secure correct information when a social security number and name do not agree with SSA records, so wages can be credited properly.

Since the court injunction in 2007, the SSA has not sent no-match letters to employers, although letters have continued to be sent to individual employees to allow them to resolve the discrepancy with their employer.

DHS indicates they will ask the court to remove the injunction and allow immediate implementation of their "final" rules. SSA has indicated they will wait on any court action before resuming letters to employers.

Since all employers can potentially receive no-match letters and be subject to the DHS rules, be alert to any news of changes by the court. However, an employer would have no exposure until the SSA letters resume and the DHS notice is included with the letter.

### **Mileage**

In 2009, the amount employers may reimburse employees for business-related mileage will be 55 cents per mile. This is also the rate a self-employed person may deduct for business mileage.

This corresponds to 50.5 cents in the first half, and 58.5 cents per mile in the second half of 2008.

Standard mileage rates may be used if the business purpose and mileage are properly documented for reimbursement. Standard rate reimbursement may not be used if actual expenses are reimbursed, the vehicle is being depreciated or used for hire, or if more than four vehicles are used at the same time. Per mile reimbursements exceeding the standard must be treated as wages for FICA and income taxes.

For 2009, moving and medical expense per mile rates will be 24 cents. Charitable related mileage remains at the same rate as 2008, 14 cents per mile.

### **SS**

This first issue of 2009 contains changes related to common payroll related items, such as cost of living adjustments, the new social security wage base and others.

With a new President in January and the economic woes being experienced, there could be some changes affecting payroll related activities as 2009 progresses, and they will be covered in future issues.

As in prior years, look for employers to carry the burden for implementing, collecting and reporting on much of the revenue and social legislation that may be enacted in 2009.

## **Social Security Wage Base**

The Social Security wage base for 2009 increases to \$106,800, an increase of \$4,800 (4.7%) over the 2008 base. The tax rate remains 6.2% for the employer and the employee, for a maximum of \$6,621.60 each in 2009. An estimated 11 million employees will pay increased taxes from this change.

The separate Medicare tax remains at 1.45% each for the employer and employee in 2009, with no maximum wage base.

As in prior years, a self-employed person must pay both the employer and employee Social Security tax and Medicare tax on self-employment income. This makes the maximum Social Security tax \$13,243.20 for a self-employed individual, with no Medicare wage limit for the 2.9% combined Medicare tax.

Social Security benefits will increase 5.8% in 2009, for a maximum benefit of \$2,323 per month for retirees reaching full retirement age. Those retiring before their full retirement age can earn up to \$14,160 a year (\$1,180 per month) without having their benefits reduced. As in prior years, benefit recipients not reaching full retirement age will lose \$1 for each \$2 over the new limit.

## **Deferred Comp**

The IRS announced last year they would require all employers to bring their non-qualified deferred compensation plans into compliance with Code Section 409A regulations in 2008.

One requirement was the reporting of 2008 deferred compensation amounts with a Code Y in Box 12 of 2008 W-2s, or in Box 15a of Form 1099-MISC.

The IRS has now waived these reporting requirements for 2008 Form W-2s.

The IRS also indicated they plan to issue regulations in 2009 on how to calculate the amount included in income and reported on the recipients W-2 or 1099-MISC.

## **Benefits**

Changes to cost-of-living adjustments (COLA) for qualified plans and other benefits for 2009 have been released, with some of the more common items of interest to employers and employees summarized below.

These automatic changes require no amendment to plan documents. For additional information about your specific plans, contact your plan administrator. To see the full announcement for the various COLA changes go to [www.irs.gov](http://www.irs.gov).

## **Pension Plans**

- The maximum elective deferral for an employee under a 401(k), 403(b) or 457 plans increases from \$15,500 to \$16,500 in 2009.
- The maximum elective deferral under a SIMPLE account increases from \$10,500 to \$11,500 for 2009.

- The limit on total additions to a defined contribution plan in 2009 will increase to \$49,000, from \$46,000 in 2008.
- The maximum benefit payable under a defined benefit plan increases from \$185,000 to \$195,000 in 2009.
- The maximum compensation used to determine contributions for qualified plans increases to \$245,000.
- For 2009, the compensation used to define a key employee goes to \$160,000, while the amount to define a control employee increases to \$95,000. The highly-compensated employee limitation increases from \$105,000 to \$110,000.
- The minimum compensation amount requiring coverage under a SEP increases from \$500 to \$550.
- The limit for additional elective deferrals for employees age 50 or over for 401(k), 403(b) and 457 plans increases to \$5,500 from \$5,000 for 2009. For SIMPLE accounts, the amount remains unchanged at \$2,500.

### **Transportation Fringes**

Amounts that may be excluded from gross income for employer-provided "qualified transportation" fringe benefits for 2009 increases to \$120 per month from \$115 in 2008. This limit applies to transit passes and commuter highway vehicles. Qualified parking benefits increase to \$230 in 2009.

### **Medical Savings Accounts**

To be eligible for a Medical Savings Account, an employee must be covered by a high deductible health plan. For 2009, the annual deductible must be \$2,000-\$3,000 for individual coverage and \$4,000-\$6,050 for family coverage. Maximum out-of-pocket expenses can not exceed \$4,000 for individual coverage or \$7,350 for family coverage.

### **Health Savings Accounts**

For 2008, the annual limit for single coverage contributions is \$2,900 and family coverage is \$5,800. A high deductible plan has an annual deductible between \$1,100-\$2,200 for single coverage and \$2,200-\$5,600 for family coverage.

### **Adoption Assistance**

The maximum amount excludable from an employee's gross income for adoption assistance for a special needs child is \$12,150 in 2009.