

D·H·SCOTT & COMPANYY

CERTIFIED PUBLIC ACCOUNTANTS

a limited liability partnership

December, 2008

Special Points Of Interest

- ◆ Enterprise Zone Hiring Credits Available
- ◆ 2009— New Rates & Tables
- ◆ Fidelity Bond Coverage, a good prevention practice
- ◆ 2009 Calendar of Payroll Tax Deadlines
- ◆ New rule for social security numbers on pay stubs
- ◆ Mileage Rate goes to 55 Cents for Business Use
- ◆ California Minimum Wage is \$8.00 Per Hour effective January 1, 2008
- ◆ FICA—Social Security Rate Remains the Same 6.2% with the Limit Increasing to \$106,800
- ◆ HI—Medicare Rate Remains the Same, 1.45% with No Wage Limit
- ◆ SDI Rate is 1.1%, with the limit increasing to \$90,669
- ◆ A New Form W-5 needs to be Provided to Anyone Qualifying for EIC by December 31, 2008
- ◆ Bonus Wages are to be Withheld at a Flat Rate of 25% for Federal and 9.3% for State Taxes

Payroll Tax and Employment Issues in 2009

With the new year comes all of the changes in tax rates, payroll tax dates, and all of the sundry "housekeeping" that keeps your business running smoothly. In this update we are emphasizing payroll tax and employment issues. We hope you find the information useful. We have provided a Payroll Tax Calendar on a separate page — keep it in a convenient place for your reference throughout the year. Remember to review all of your Federal and State Withholding Tables to make certain you start using the 2009 materials in January.

W-2 & W-4

Now is the time to send out new W-4's to all employees to verify their name, address, Social Security Number and withholding allowances. Legally, W-4 forms previously provided to you **claiming exemption from withholding** expire on February 15, 2009. Begin withholding of any employee who previously claimed exemption from withholding, but has not given you a new Form W-4, withhold tax as if he or she is single, with zero withholding allowances. As an employer, you can be charged penalties for incorrect reporting of names and/or Social Security. Numbers on Form W-2. Errors not only affect the employer, but the Social Security Administration would be unable to

post the earnings' records to the employee's account for benefit purposes.

The deadline for providing your employees Form W-2, for their 2008 earnings, is January 31, 2009.

Federal Earned Income Tax Credit Notification

As of January 1, 2008 California employers are required to notify their employees about the availability of the federal Earned Income Tax Credit (EITC). Written notification must be provided to employees in person or by mail. Notification must be provided within one week before or after, or at the same time, that you provide an annual wage summary, including, a Form W-2 or a Form 1099.

Protect Yourself and Employees from Fraud

A key way to protect yourself and your employees from fraud is by properly disposing of your past payroll records. California law requires you to properly destroy the personal information on all records under your control. Your employees may sue for civil damages if you fail to protect their confidential information.

The Employment Development Department (EDD) encourages you to take all necessary steps to protect your employees' social security numbers and other identifying information. For more information and retention guidelines visit www.privacyprotection.ca.gov

Employee Reporting Requirements

New Employee Registry

All California employers must report all of their new or rehired employees who work in California to the New Employee Registry **no later than 20 days after their start-of-work date**. The start-of-work date is the first day services were performed for wages.

The Following Information Must be Reported:

- Employee's full name, Social Security number, address, and start-of-work date
- Employer's name, address, California employer account number, and Federal employer identification number (FEIN)

Reporting Requirements (one of the following):

- Form DE34
- A letter with the required information
- A copy of the employee's W-4 form with the addition of the employee's start-of-work date, the California employer account number, and Federal employer identification number (FEIN)

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Independent Contractor Reporting Requirements

The requirements placed in effect on January 1, 2001, still remain an important part of your reporting requirements. Any business or government entity that is required to file a Federal Form 1099-MISC for services, will be required to report information to the State of California Employment Development Department. **This information must be reported on The Report of Independent Contractors Form DE 542.** The information will be used to establish, modify or enforce child support obligations, and must be reported within 20 days of the earlier of either:

- Entering into a contract which equals or exceeds \$600
- When the aggregate payments to an Independent Contractor equal or exceed \$600

You are not required to report independent contracts, corporations, general partnerships, LLP's and LLC's. If you have any questions regarding the reporting requirements, you may contact us or the EDD at 916-657-0529.

1099's

1099's must be distributed to the recipients by January 31, 2009, and the annual transmittal of Forms 1099 (Form 1096) must be filed with the IRS by February 28, 2009. For detailed information, please refer to the IRS website www.irs.gov or contact us.

1099-INT & 1099-DIV Payments of interest and dividends of \$10.00 or more must be reported.

1099-MISC You are required to report any payments made in the course of your trade or business, including those made to federal, state or local government agencies and nonprofit organizations, when all of the following conditions are met:

- Non-employee compensation; payment made to someone who is not your employee
- Payment made for services or rent in the course of your trade or business
- Payment to someone other than a corporation
- During the course of the year, payments totaled at least \$600.

The rule that attorneys' fees of \$600 or more must be reported to the IRS on Form 1099-MISC has not changed. However, if you made a payment of any amounts in combination to an attorney in the course of your business in connection with legal services and the attorney's fee cannot be determined, you must report the total amount paid to the attorney on Form 1099-MISC. **The exception for payments to corporations does not apply to payments for legal services. Those payments must be reported on Form 1099-MISC.**

Form I-9

Employers are required to determine that all new employees are eligible to work in the United States. Form I-9, Employment Eligibility Verification Form, is used as proof of an individual's identity and eligibility. **You must have a completed Form I-9 for everyone you have hired after November 6, 1986.**

If you are self-employed, you do not need to complete a Form I-9 on yourself unless you are also an employee of a business entity, such as a corporation or partnership, in which case the business entity is required to complete a Form I-9 on you.

New FMLA Regulations

The Department of Labor has issued highly anticipated changes to the Family and Medical Leave Act (FMLA), making the first major revisions to the 1993 law in 13 years.

The new regulations are designed to:

- Expand avenues for communication between employees, employers and healthcare providers;
- Provide clarity to workers and employers about their mutual responsibilities and rights under the FMLA; and
- Address the two new FMLA leave entitlements created by the mili-

tary family leave provisions in the National Defense Authorization Act (NDAA).

These rules take effect 60 days after the publication date in the Federal Register, which was released November 17, 2008. This means employers must abide by the new regulations as of January 16, 2009.

Additionally, employers that are required to post FMLA policies in the workplace must have updated FMLA postings displayed by this date.

For more information on these changes go to <http://www.dol.gov/esa/whd/fmla/>.

Mileage Rates

Gasoline prices have increased some IRS mileage rate allowances for 2009:

- Standard rate for business usage goes to 55 cents a mile.
- Standard rate for medical reasons and for computing deductible moving expenses goes to 24 cents a mile.
- Standard rate for providing service to a charitable organization remains unchanged at 14 cents a mile.

Fidelity Bond Coverage

A good system of internal controls is the best protection against employee theft or fraud. However, a determined employee may be able to find a way around even the best system of internal controls. A fidelity bond is an inexpensive way to protect against losses resulting from fraudulent or dishonest acts by employees. Please contact us for a more detailed explanation of this coverage, 530-243-4300.

2009 Payroll Tax Calendar

January 15, 2009

December Federal and State liability should be deposited if you are a monthly depositor.

February 2, 2009

- Last day to distribute W-2's to employees and 1099's to recipients.
- 2008 1099 Federal Unemployment Tax Return due (Form 940).
- 2008 DE7 Annual Reconciliation Return due.
- 2008 4th Quarter Employer Payroll Tax Returns due (Forms 941, 943 and DE6).
- 2008 4th Quarter or Annual FUTA and SUTA deposit due.
- 2008 Annual Return of Withheld Federal Income Tax due (Form 945).

February 16, 2009

January Federal and State liability should be deposited if you are a monthly depositor.

February 16, 2009

Begin withholding for each employee who previously claimed **exemption** from withholding but has not given a new W-4 for the current year. If a new W-4 has not been received, withhold at single rates with zero withholding allowances, until a new W-4 has been received.

March 2, 2009

2008 Wage and Tax Statement Form W-2 and W-2 transmittal due (Form W-3). Also, Form 1099 and Form 1096 transmittals are due to the office indicated on Form 1096.

March 16, 2009

February Federal and State liability should be deposited if you are a monthly depositor.

April 15, 2009

March Federal and State liability should be deposited if you are a monthly depositor.

April 30, 2009

2009 1st Quarter Employer Payroll Tax Returns due (Forms 941 & DE6). 2009 1st Quarter FUTA and SUTA deposit due if required.

May 15, 2009

April Federal and State liability should be deposited if you are a monthly depositor.

June 15, 2009

May Federal and State liability should be deposited if you are a monthly depositor.

July 15, 2009

June Federal and State liability should be deposited if you are a monthly depositor.

July 31, 2009

2009 2nd Quarter Employer Payroll Tax Returns due (Forms 941 & DE6). 2009 2nd Quarter FUTA and SUTA deposit due if required.

August 17, 2009

July Federal and State liability should be deposited if you are a monthly depositor.

September 15, 2009

August Federal and State liability should be deposited if you are a monthly depositor.

October 15, 2009

September Federal and State liability should be deposited if you are a monthly depositor.

November 2, 2009

2009 3rd Quarter Employer Payroll Tax Returns due (Forms 941 & DE6). 2009 3rd Quarter FUTA and SUTA deposit due if required.

November 16, 2009

October Federal and State liability should be deposited if you are a monthly depositor.

December 1, 2009

Request a new Form W-4 from each employee who claimed total exemption from withholding during the year, or whose withholding allowance will change. Also, request a new Form W-5 for EIC qualifiers.

December 15, 2009

November Federal and State liability should be deposited if you are a monthly depositor.

January 15, 2010

December Federal and State liability should be deposited if you are a monthly depositor.

Please Note

The 2009 Payroll Tax Calendar does not include due dates for employers who fall into the semi-weekly deposit requirements (\$50,000 or more total tax liability for the look-back period of July 1 to June 30 of the prior year). If wages are paid on Wednesday, Thursday or Friday, deposit by the following Wednesday. If wages are paid on Saturday, Sunday, Monday or Tuesday, deposit by the following Friday. If, on any day, an employer's un-deposited federal employment tax liability equals or exceeds \$100,000, taxes must be deposited by the close of the next banking day. Also, refer to the electronic deposit requirements on Page 4.

Electronic Deposit Requirements

You must make electronic deposits of all depository taxes (such as employment tax, excise tax, and corporate income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2009 if:

The total deposits of such taxes in 2007 were more the \$200,000, or
 You were required to use EFTPS in 2008.

If you are required to use EFTPS and fail to do so, you may be subject to a 10% penalty. If you are not required to use EFTPS, you may participate voluntarily.

The due date for submitting payments will depend on the method of transfer you choose. If you use EFTPS Direct, payment must be made one banking day prior to the due date. If your bank or financial institution is an authorized collector, you may be able to submit payments the same day they are due (check with your bank to find out if they offer this service).

California also requires electronic deposits if your quarterly estimated tax payment or extension payment exceeds \$20,000 or your total tax liability exceeds \$80,000 for any income year beginning on or after January 1, 1995. Once you remit a payment that meets the criteria for mandatory participation all future payments must be made via EFT.

Posting Requirements

It is important to review your workplace employment posting requirements. Non-compliance can result in heavy penalties. The requirements vary greatly depending on the number of employees and the type of industry. Contact your local EDD Employer Hotline or one of the many employer services who provide posters. One requirement is to post a holiday and payday schedule that includes date, time and place of payment.

Enterprise Zone Hiring Credits

The Enterprise Zone credit program was reinstated on November 7, 2006. If your business is located in a California Enterprise Zone, it may be eligible for the Hiring Tax Credits. The Hiring Tax Credit is in addition to the sales tax credit and the accelerated business deduction for assets purchased. To find out if you qualify for this tax credit, contact D. H. Scott & Company.

Read the Guides

We cannot overemphasize the need for employers to use the IRS Circular E, Employer's Tax Guide and the California Employer's Guide, both for 2009, as a reference. You should also refer to your income tax withholding tables to be sure they are current. The IRS and the California Employment Development Department will issue new withholding tables in the month of December, which are effective January 1, 2009.

2009 Tax Rates & Wage Limits

Tax	Payee	Rate	Wage Limit
Social Security (FICA)	Employer	6.2%	\$106,800
Social Security (FICA)	Employee	6.2%	\$106,800
Medicare (HI)	Employer	1.45%	No Limit
Medicare (HI)	Employee	1.45%	No Limit
State Disability Insurance (SDI)	Employee	1.1%	\$90,669
Federal Unemployment Training Tax (FUTA)	Employer	.8%	\$7,000
State Unemployment Tax (SUI)	Employer	Varies	\$7,000