

D·H·SCOTT & COMPANY

CERTIFIED PUBLIC ACCOUNTANTS

a limited liability partnership

December, 2009

Special Points Of Interest

- ◆ 2010— New Rates & Tables
- ◆ 2010 Calendar of Payroll Tax Deadlines
- ◆ Mileage Rate decreases to 50 Cents for Business Use
- ◆ California Minimum Wage Remains at \$8.00 Per Hour
- ◆ FICA—Social Security Rate and Limit Remains the Same - 6.2% for the first \$106,800 paid
- ◆ Medicare Rate Remains the Same, 1.45% with No Wage Limit
- ◆ SDI Rate is 1.1%, with the limit increasing to \$93,316
- ◆ A New Form W-5 needs to be Provided to Anyone Qualifying for EIC by December 31, 2009
- ◆ Reminder: Bonus Wages are to be Withheld at a Flat Rate of 25% for Federal and 10.23% for State Taxes
- ◆ New Board of Equalization filing requirements for all businesses with Gross Receipts of \$100,000 and higher. See page 2 for details.

Payroll Tax and Employment Issues in 2010

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 2010 materials in January.

Forms 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, 2010. 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 2009 earnings, is February 1, 2010

Federal Earned Income Tax Credit Notification

All 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 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.

More information can be found at www.irs.gov.

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

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**. Employers must report the employee's full name, Social Security number, address and start-of-work date as well as the Employer's name, address, California employer account number and Federal employer identification number (FEIN). Visit www.edd.ca.gov for more information and guidance on new employee reporting.

Reporting Requirements (one of the following):

- Form DE 34
- A letter with the required information
- A copy of the employee's W-4 with the start-of-work date, California employer account number and the FEIN added.

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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

If you have any questions regarding the reporting requirements, you may contact us or the EDD at 916-657-0529 or visit their website at www.edd.ca.gov

Form 1099's

1099's must be distributed to most recipients by February 1, 2010. There are extended due dates for distribution of certain 1099 forms. The annual transmittal of Forms 1099 (Form 1096) must be filed with the IRS by March 1, 2010. 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.**

See the form instructions at www.irs.gov for additional details.

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 an employee of a business entity, such as a corporation or partnership, the business entity is required to complete a Form I-9 on you. More information can be found at www.uscis.gov/files/form/i-9.pdf

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 decreased some. IRS mileage rate allowances for 2010:

- Standard rate for business usage decreases to 50 cents a mile.
- Standard rate for medical reasons and for computing deductible moving expenses decreases to 16.5 cents a mile.
- Standard rate for providing service to a charitable organization remains unchanged at 14 cents a mile.

Board of Equalization—New Registration and Reporting Requirements for Certain Purchasers: Assembly Bill x4-18 requires a "qualified purchaser" to register with the Board and report and pay use tax directly to the BOE. A "qualified purchaser" is a business with at least \$100,000 in annual gross receipts from business operation. The return for 2009 along with the payment is due by April 15, 2010. Registrants are also being asked to report purchases for 2007 and 2008. Please contact us at (530) 243-4300 for more information or visit the BOE website at www.boe.ca.gov

2010 Payroll Tax Calendar

January 15, 2010

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

February 1, 2010

- Last day to distribute W-2's to employees and 1099's to recipients.
- 2009 1099 Federal Unemployment Tax Return due (Form 940).
- 2009 DE7 Annual Reconciliation Return due.
- 2009 4th Quarter Employer Payroll Tax Returns due (Forms 941, 943 and DE6).
- 2009 4th Quarter or Annual FUTA and SUTA deposit due.
- 2009 Annual Return of Withheld Federal Income Tax due (Form 945).

February 16, 2010

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

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 1, 2010

2009 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 15, 2010

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

April 15, 2010

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

Qualified Purchasers must report and pay Use Tax to the Board of Equalization

April 30, 2010

2010 1st Quarter Employer Payroll Tax Returns due (Forms 941 & DE6). 2010 1st Quarter FUTA and SUTA deposit due if required.

May 17, 2010

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

June 15, 2010

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

July 15, 2010

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

August 2, 2010

2010 2nd Quarter Employer Payroll Tax Returns due (Forms 941 & DE6). 2010 2nd Quarter FUTA and SUTA deposit due if required.

August 16, 2010

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

September 15, 2010

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

October 15, 2010

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

November 1, 2010

2010 3rd Quarter Employer Payroll Tax Returns due (Forms 941 & DE6). 2010 3rd Quarter FUTA and SUTA deposit due if required.

November 15, 2010

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

December 1, 2010

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, 2010

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

January 17, 2011

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

Please Note

The 2010 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

Federal:

You must make electronic deposits of all Federal depository taxes (such as employment tax, excise tax, and corporate income tax) using the Electronic Federal Tax Payment System (EFTPS) in 2010 if the total deposits of such taxes in 2009 were more than \$200,000, or you were required to use EFTPS in 2009. Failure to use EFTPS when required may result in a 10% penalty. You may participate in EFTPS 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:

California also requires electronic funds transfer (EFT) of tax deposits if your state income tax and state disability insurance deposits averaged \$20,000 or more during the prior state fiscal year (July 1-June 30) 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.

For information on Federal EFTPS visit www.irs.gov or for California EFT visit www.edd.ca.gov

Posting Requirements

It is important to review your workplace employment posting requirements. Non-compliance can result in heavy penalties. These 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 for the updated requirements.

Hiring Credits

There are new hiring credits that may benefit your business during 2009 & 2010.

The **Enterprise Zone Credits** for California remain available for eligible businesses physically located in the Enterprise Zone. Additionally California has a **New Jobs Credit** of \$3,000 for each new full time job created in eligible businesses. This credit is limited to \$400 million in 2009 and is on a first-come first-served basis so eligible businesses must file their returns as soon as possible.

There are also Federal hiring credits available including the **Work Opportunity Tax Credit (WOTC)** and the **Welfare to Work Credit**. The WOTC provides for a credit up to 40% of the first year's wages paid or \$6,000. The Welfare to Work credit may qualify the employer for a credit up to \$3,500 for the first year and \$5,000 for the second year of employment when hiring long term family assistance recipients.

There are time and filing requirements that must be met in order to qualify for some of these credits so it is important to become familiar with them immediately. For more information on the Federal and California credits please contact us or visit the IRS website at www.irs.gov or the California website at www.ftb.ca.gov

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 2010, 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, 2010. These guides and tax tables are available at www.irs.gov and www.edd.ca.gov

2010 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%	\$93,316
Federal Unemployment Training Tax (FUTA)	Employer	.8%	\$7,000
State Unemployment Tax (SUI)	Employer	Varies	\$7,000