Bollenback & Forret, PA
Business Tax Newsletter
2019

FLSA Overtime Rules & 2020 Leap Year

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Fair Labor Standards Act (FLSA) Overtime Rules

On September 24, 2019 the US Department of Labor announced a final rule to make 1.3 million American workers newly eligible for overtime pay which will be effective January 1, 2020. The final rule updates the earnings thresholds necessary to exempt executive, administrative and professional employees from the FLSA minimum wage and overtime pay requirements, and allows employers to count a portion of certain bonuses/commissions towards meeting the salary level. The new thresholds account for growth in employee earnings since the thresholds were last updated in 2004.

In the final rule, the Department is raising the “standard salary level” from the currently enforced level of $455 per week to $684 per week (equivalent to $35,568 per year for a full-year worker); raising the total annual compensation requirement for “highly compensated employees” from the currently enforced level of $100,000 per year to $107,432 per year; allowing employers to use nondiscretionary bonuses and incentive payments (including commissions) paid at least annually to satisfy up to 10% of the standard salary level, in recognition of evolving pay practices; and revising the special salary levels for works in U.S. territories and the motion picture industry. Workers who do not earn at least $35,568 a year ($684 per week) would have to be paid overtime, even if they’re classified as a manager or professional.

2020 Leap Year

While February typically has 28 days, in leap years – such as the forthcoming 2020 – it sprouts a 29th. This can be a headache for HR and payroll professionals, resulting in an extra payday in the calendar year, depending on when and how employees are paid.

During a leap year, many companies will encounter the prospect of 27 biweekly pay periods instead of the typical 26, or 53 weekly pay periods instead of 52. The additional pay period presents a possible issue only for employees paid an annual salary, since hourly employees are paid for time worked. If your company’s first pay date of the new year falls on January 3, 2020, this could affect how you decide to pay employees.

In any year with 365 days, there will be six days of the week that occur 52 times and one day of the week that occurs 53 times. In a leap year, with 366 days, there will be five days of the week that occur 52 times and two days of the week that occur 53 times.

For those years when an employer finds itself with 53 or 27 paydays, there are two general options: do nothing and pay the same amount for each payday, recognizing one extra paycheck in the year (this typically results in a higher payroll cost) or divide annual salaries by 53 or 27 days (this will result in smaller employee checks each payday, countered by an extra paycheck at year’s end). In years with an extra pay period, it’s important to inform employees that their annual salary will remain the same despite slightly smaller paychecks for each pay period.

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Tax Cuts and Jobs Act

Congress has not enacted any significant business tax legislation for the 2019 tax year after the widespread changes made to the tax law in 2018 with the passing of the Tax Cuts and Jobs Acts (TCJA). After these substantial changes, businesses need to ensure their continued compliance with these new rules and understand how to optimize their tax liability for 2019 and 2020.

Corporate Tax Rates

The corporate tax rate remains at a flat 21 percent rate for 2019.

Alternative Minimum Tax (AMT)

The Tax Cuts and Jobs Act repealed the AMT on corporations for tax years beginning after 2017.

Net Operating Loss (NOL)

For NOL's arising in tax years beginning after December 31, 2017, the TCJA limits the NOL deduction to 80 percent of taxable income. In addition, the TCJA eliminated the two-year carryback period but allows for an indefinite carryforward. For NOL's generated prior to December 31, 2017, prior tax law will still apply; the 80 percent limitation on NOL's would not apply and the NOL's could be carried forward 20 years.

Meals and Entertainment

The TCJA has eliminated the deduction for any expenses related to activities generally considered entertainment, amusement or recreation. Taxpayers can continue to deduct 50 percent of the cost of business meals if the taxpayer (or an employee of the taxpayer) is present and the food or beverages are not considered lavish or extravagant. The meals may be provided to a current or potential business customer, client, consultant or similar business contact. Food and beverages that are provided during entertainment events will not be considered entertainment, and are still deductible, if purchased separately from the event. ***We recommend that you set up separate accounts for "Meals" and "Entertainment" in your books.***

Qualified Business Income Deduction

Through 2025, the TCJA added a new deduction for sole proprietorships and owners of pass-through entities, such as partnerships, S corporations and LLC's that are treated as sole proprietorships, partnerships or S corporations for tax purposes. The deduction is generally 20% of a taxpayer's qualified business income (QBI) and is taken at the partner or shareholder level. This deduction is subject to limitations that can begin to apply if taxable income exceeds the applicable threshold - $160,700 or if married filing jointly, $321,400 ($160,725 for separate filers). The limits fully apply when taxable income exceeds $210,700 and $421,400 ($210,725), respectively.

QBI is generally defined as the net amount of qualified items of income, gain, deduction and loss that are effectively connected with the conduct of a U.S. business. QBI doesn't include certain investment items, reasonable compensation paid to an owner for services rendered to the business, or any guaranteed payments to a partner or LLC member treated as a partner for services rendered to the partnership or LLC.

The 199A deduction is not used in calculating an owner's adjusted gross income, but it reduces taxable income. In effect, it's treated the same as an allowable itemized deduction (though you don't have to itemize to claim it).

When the income-based limit applies to owners of pass-through entities, the 199A deduction generally can't exceed the greater of the owner's share of 50% of the amount of W-2 wages paid to employees by the qualified business during the tax year, or the sum of 25% of w-2 wages plus 2.5% of the cost of qualified property.

Another limitation for taxpayers subject to the income-based limit is that the 199A deduction generally isn't available for income from "specified service businesses." Examples include businesses that involve investment-type services and most professional practices (other than engineering and architecture).

Florida Tax Rate Reductions & Other News

Florida Corporate Income Tax Rate Reduction

The Florida corporate income/franchise tax rate is reduced from 5.5% to 4.458% for taxable years beginning on or after January 1, 2019, but before January 1, 2022. Further reduction in the tax rate is possible for taxable years beginning on or after January 1, 2020, and January 1, 2021. The Florida Department of Revenue will post additional Tax Information Publications on any future tax rate changes.

New Lower Florida Sales Tax Rate for Commercial Rentals

Effective January 1, 2020, the Florida sales tax rate on the rental of real property decreases to 5.5% from 5.7%. The local discretionary sales surtax imposed by the county where the real property is located continues to apply. (For example, the Pinellas County surtax is 1%, so the total sales tax rate is 6.5%).

Sales tax is due at the rate in effect during the time the tenant occupies, or is entitled to occupy, the real property ***regardless*** of when the rent is paid. Rental charges paid on or after January 1, 2020 for rental periods prior to this date are subject to the 5.7% state sales tax, plus any applicable discretionary sales tax.

Florida Annual Report

Every Florida business must file an annual report once a year with the Florida Division of Corporations no later than May 1 of each year or be subject to a $400 late filing penalty. The annual fee ranges anywhere from $61.25 to $500 depending on the type of business entity. All filings must be done online at https://services.sunbiz.org/Filings/AnnualReport/FilingStart

Florida Corporate Income Tax Reporting of Additional Required Information

Florida law requires every taxpayer that files a Florida corporate income/franchise tax return (Form F-1120 or F-1120A), for any taxable year beginning during the 2018 or 2019 calendar year, to report additional information from each taxable year to the Department. The additional information must be submitted online at www.floridarevenue.com. An officer of the corporation, or a person, including an accountant, that is duly authorized to act on the taxpayer's behalf, must certify that the information submitted is true and correct.

2019 Year-End Tax Savings Opportunities

Section 179 Expensing and Bonus Depreciation

Two of the biggest tax incentives available to any business are the Section 179 expense deduction and the bonus depreciation deduction. You may be eligible for both, depending on the amount of your business's taxable income. These deductions can significantly lower your taxable income, thus saving on taxes. Whether any last-minute purchases before the end of the year are advisable will depend not only on your business needs but whether the extra deductions available can be utilized in 2019.

Business equipment, furniture, vehicles and off-the-shelf computer software can be depreciated over several years, or the full cost can be deducted in the year of purchase as a Section 179 expense, up to $1,020,000 (some vehicles have limitations). Businesses exceeding a total of $2.55 million of qualifying equipment purchases are subject to a dollar-for-dollar phase out of the Section 179 deduction which completely eliminates the deduction when the purchases reach $3.57 million. The Section 179 deduction is also limited to your aggregate taxable income for the year derived from the active conduct of a trade or business. Thus, unlike depreciation, the Section 179 expense cannot be used to reduce income below zero.

In addition to the Section 179 expense option, an additional first-year depreciation allowance, known as bonus depreciation, is available for qualifying property placed in service in 2019. Generally, unless you elect out of the bonus depreciation deduction, 100% of the cost of qualifying property, which is not expensed under Section 179, must be deducted. This applies to new or used trade or business property. The property must meet "original use" or "used acquisition" requirement. A deduction is still available even if you use the property for personal purposes, as long as your business use is more than 50 percent. However, if your business use of the property falls to 50 percent or less, you may have to recapture your earlier deductions as income. Unlike with the Section 179 deduction, there is no taxable income limitation on a deduction for bonus depreciation.

Retirement Plans

- The end of the year is also a good time to review your company's retirement plan situation. If you have one, should you make a change? If you don't have a company-sponsored retirement plan, do you want to establish one? Such a plan not only will benefit your employees, it will enable you to put aside funds for your own retirement on a tax-favored basis.
- Today, a 401(k) can be considered the "standard" company plan. Many prospective employees expect to have a 401(k) at work, so offering such a plan may enable you to attract good people and retain valued workers. Contributions generally are funded by the employees themselves, but many companies provide matching contributions in some form.
- December 31 is the deadline for establishing a 401(k) plan for 2019, assuming your company uses a calendar year. Employee contributions for 2019 must be withheld from 2019 paychecks and must be sent to the relevant financial firm as soon as possible. Employer contributions, deductible for 2019, can be made up to the company's tax return due date, including extensions.
- A variation of the basic 401(k) is often known as the solo 401(k) or the individual 401(k). Other names may apply. However the plan is titled by the financial firm involved, it is open only to business owners and their spouses who are employed by the company. For 2019, the maximum contribution to a solo 401 (k) is $56,000 per participant, if certain conditions are met, or $62,000 for those age 50 or older. Basic 401(k) plans have contribution limits of $19,000, or $25,000 if 50 or older, before any employer match.
- Again, the deadline for establishing a solo 401(k) in 2019 is December 31 of this year. Some tax deductible contributions may be made up to the tax return deadline, including extensions, in 2020.

Beyond 401(k)s

Other retirement plans for small businesses also have a December 31 deadline for signing the forms to receive tax benefits in 2019. These plans also have an extended due date for making contributions. They include profit sharing plans, which are funded by the employer. Profit sharing plans may motivate employees to help the company's earnings grow. Annual employer contributions are discretionary, so companies aren't locked in. Our office can help you choose among various retirement plans for your business and let you know about any year-end deadlines.

Payroll, Fringe Benefits, and 1099's

Medicare Tax Rate

Medicare tax remains at 1.45% each for employee and employer for 2020. For high-earning employees the Medicare tax rate will continue to increase by .9 percent (from 1.45 percent to 2.35 percent) on wages over $200,000 for single filers, wages over $250,000 for joint filers, and wages over $125,000 for persons who are married but filing separately. An employer is required to withhold this additional Medicare tax if an employee receives wages of more than $200,000 in a calendar year, from that particular employer. Employers are not required to consider a spouse's wages or whether an employee earns wages at a second job. There is no employer match for the additional Medicare tax, and no requirement that an employer notify employees when it begins withholding the additional Medicare tax. An employer is required to begin withholding the additional tax in the pay period in which it pays wages in excess of $200,000 to an employee.

Social Security Tax Rate

For 2020, Social security tax remains at 6.2% on wages up to $137,700 (a $4,800 increase from 2019) and Medicare remains at 1.45% The self-employment tax rate will be 15.3% on the first $137,700 of net earnings and 2.9% thereafter.

New Hire Reporting

All employers must timely report each new or rehired employee to the Florida Department of Revenue Child Support Services for Employers website. This website consolidated the features of the Florida New Hire Reporting Center website and the Child Support Employer Services website. If you already have an account with the Florida New Hire Reporting Center website, your account information has not changed. To register or to report new hires, please visit

https://servicesforemployers.floridarevenue.com/

Fringe Benefits

Certain fringe benefits paid in 2019 must be reported on payroll tax returns and W-2's including:

- **Personal Use of Business Automobile** – Employees and employee/owners are taxed on their personal use of the business vehicles. ***Contact us or visit our website for the worksheets to compute personal use of automobile income. If we prepare your payroll, please complete and return to us no later than 12/16/19*** If you use a payroll processing company, please forward the worksheets to them prior to your year-end payroll for inclusion in your 2019 W-2s. Call us to discuss.
- **S Corporation Fringe Benefits** – S corporation shareholders generally must include as additional compensation: **health insurance premiums paid on their behalf by the corporation.** ***Report these amounts to your payroll processor prior to year-end processing. Per IRS regulations, health insurance must be reported on a W-2 for greater than 2% shareholders to be deductible on page 1 of Form 1040.***
- **Group Life Insurance** – Your insurance agent can provide the amount to include for those whose coverage is in excess of $50,000. ***These figures should be forwarded to your payroll processor before final paychecks are distributed.***
- **Health Savings Accounts** This type of fringe benefit, when added to your current Section 125 Cafeteria Plan, can be a low or no cost benefit for you and your employees when offered in conjunction with a high deductible health plan.

1099 Filing Requirements

- **Interest and Dividend Payments** Businesses must report all interest and dividend payments in excess of $10 per payee during 2019 by January 31, 2020.

Service and Rent Payments

Businesses must report by January 31, 2020 to each person to whom at least $600 was paid in 2019 for services and/or rents. Any payments of at least $600 to any attorney or law firm in connection with legal services, whether or not the services were performed (such as retainers or prepaid legal fees), must be reported.

If you need assistance with, or have questions regarding the 1099 filing requirements, please contact us.

MARK YOUR CALENDARS

- December 1-16, 2019 - Contact us for your 2019 tax projection
- January 31, 2020 - All W-2's and 1099's need to be distributed to employees and or contractors
- January 31, 2020 - File all government copies of W-3/W-2's and 1096/ 1099's
- **February 14, 2020** - Please provide your complete tax information to prepare your 2019 Corporate and/or Partnership returns
- March 16, 2020 - Partnerships and S-Corporation Tax Returns due
- April 1, 2020- Tangible Personal Property Tax Returns Due
- April 15, 2020- C– Corporations, Individual, Estate & Trusts, and Foreign Financial Accounts (FinCEN) Tax Returns due
- May 1, 2020- Annual Report with Florida Department of State due (https://services.sunbiz.org/Filings/AnnualReport/FilingStart)
- May 15, 2020—Exempt Organizations (Form 990 & 990-PF) Returns Due
- September 15, 2020 - Final date to file a Corporate/Partnership return that was extended

Firm News - New in 2020

We have some exciting news! In the New Year we are transitioning to sending out important tax news, updates and our annual questionnaires electronically. We will soon be sending you an email asking you to verify whether or not you'd like to receive these emails from us. This new system will also be used to send out office announcements such as our Habitat project earlier this year. Please click **Subscribe!**

Visit our on-line Tax Guide for updates - http://bollenback.com/reports.php

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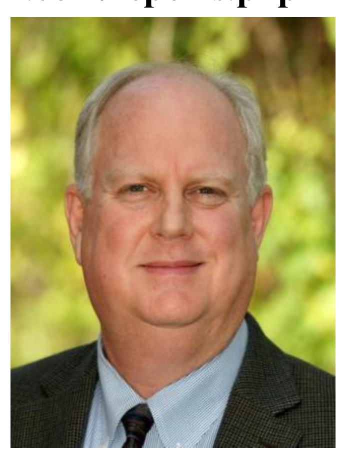

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