

Bollenback & Forret, p.a.

CERTIFIED PUBLIC ACCOUNTANTS
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MEMORANDUM IMPORTANT YEAR-END PAYROLL INFORMATION

Date: December 2020
To: Business Clients

Please verify the addresses and social security numbers of your 2020 employees. At the beginning of each year, you should be updating your employee personnel files with a new W-4 Form to confirm that you are withholding the correct amounts from your employee's paychecks. Please make sure that you maintain up to date records for your employees and keep a copy of the I-9 Form, photo identification and the employee's social security card in their file. All *original* I-9 Forms should be kept in a separate file. All forms can be found at www.irs.gov by typing the form number in the search bar and submitting your search. Please note that all QuickBooks and software clients need to verify that all employee records are updated in their system. If an employee is no longer employed by you and *has no earnings for 2020*, please designate them as "inactive" in your system. If we do your manual payroll and have attached an employee list, please review this list, make changes as needed and return to our office with your fourth quarter payroll.

Form I-9

Please note that Form I-9 with the revision date 10/21/2019 should be used for all new hires.

Shareholder health insurance premiums

The IRS requires that a more than 2% shareholder report their health insurance premiums as an adjustment to gross income on their individual income tax return and not as a deduction on the S Corporation income tax return. These premiums paid through the company for any greater than 2% shareholders, spouse or family members (including lineal descendants) should be included in wages and reported on the W-2's. Therefore, these premiums should be tracked separately throughout the year. If we have not addressed this with you, please call us so we can assure your W-2's are correctly processed for year end. **If we prepare your payroll, please complete and return the attached "2020 Payroll Questionnaire" to us before your last payroll or no later than 12/21/20. If you use a payroll service, this questionnaire should be provided to your payroll representative or utilize the form they provided to you.**

Personal Use of Business Automobile

Employees and employee/owners are taxed on their personal use of the business vehicles. ***Please visit our website at www.bollenback.com for the 2020 Auto Worksheet for the “Employee Representation Regarding Use of Company Vehicle” package to calculate the amount to include in income. The worksheet is located under the Guides tab in the “Year-End Tax Planning Letters” section. If we prepare your payroll, please complete and return to us before your last payroll or no later than 12/21/20. If you use a payroll service, this questionnaire should be provided to your payroll representative or utilize the form they provided to you.***

REMINDER: all bonuses, gift certificates, etc. for the holidays or year-end, are considered “wages”. Physical gifts with a value of \$25 or less are not considered compensation. If you need help calculating these bonuses, please give us a call.

1099’s need to be processed at year-end

Prior to the disbursement of a payment, you should have a current Form W-9 on file for all entities, and/or individuals. Please note that many individuals may indicate that they are not required to complete a Form W-9 because they are an LLC. You should have a Form W-9 on file for all LLC service providers to determine if a 1099 is required. For tax purposes, an LLC could be an exempt corporation or a sole proprietor, requiring the issuance of a 1099. In addition, you must also file 1099’s for all payments made to entities that provide legal services, whether it is an individual attorney or a law firm. Please include a copy of all Forms W-9 with your year-end work. If we do not process financial statements during the year, we will need to know the total amount paid for services to the individuals, partnerships, LLC’s and estates, as well as for legal services provided. ***All 1099’s are to be furnished to the recipient by February 1, 2021.***

If you have engaged us for preparation of payroll, please forward the completed “2020 Payroll Questionnaire” and “Employee Representation Regarding Use of Company Vehicle for Calendar Year 2020” documents to our office no later than December 21, 2020.

If you have engaged us for preparation of your 1099 returns, please forward the necessary information needed to prepare the 1099 returns to our office no later than January 15, 2021.

Please be advised that penalties can be assessed for not filing correct information returns and/or not furnishing correct payee statements. For 2020 filings, penalties are applied at \$50 per return or statement filed after the deadline but within 30 days and they increase to \$110 for returns filed after 30 days beyond the deadline but before August 1, 2021. Information return reports filed incorrectly after August 1, 2021, or not at all, will have a penalty of \$280 per form.

On the following two pages is some additional literature in regards to who should receive a 1099. Should you have any questions, please do not hesitate to call our office.

Firm News

We have transitioned to sending out important tax news, updates and our annual questionnaires electronically. Please call us if you have not been contacted about 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 and newsletters.

1099 Reporting Requirements and Examples:

What is nonemployee compensation? If the following four conditions are met, you must generally report a payment as nonemployee compensation.

- You made the payment to someone who is not your employee;
- You made the payment for *services* in the course of your trade or business (including government agencies and nonprofit organizations);
- You made the payment to an individual, partnership, LLC, estate, or, in some cases, a corporation; **AND**
- You made payments to the payee of at least \$600 during the year.

These payments are to be reported on a new IRS Form **1099-NEC** in Box 1. The NEC (non-employee compensation) form replaces the old informational reporting on 1099-MISC, Box 7.

Examples. The following are some examples of payments to be reported in Box 1 of Form 1099-NEC (please note that this does not include fees paid to corporations, except attorneys).

- Professional service fees, such as fees to attorneys (including corporations), accountants, architects, contractors, engineers, etc.
- A fee paid to a nonemployee, including an independent contractor, or travel reimbursement for which the nonemployee did not account to the payer, if the fee and reimbursement total at least \$600. To help you determine whether someone is an independent contractor or an employee, see Pub. 15-A.
- Payment for services, including payment for parts or materials used to perform the services if supplying the parts or materials was incidental to providing the service. For example, report the total insurance company payments to an auto repair shop under a repair contract showing an amount for labor and another amount for parts, if furnishing parts was incidental to repairing the auto.
- Fees paid by one professional to another, such as fee-splitting or referral fees.
- Payments by attorneys to witnesses or experts in legal adjudication.
- Commissions paid to nonemployee salespersons that are subject to repayment but not repaid during the calendar year.
- Payments to nonemployee entertainers for services.
- Use Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, for payments to nonresident aliens.
- Exchanges of services between individuals in the course of their trades or businesses. ***Please contact us for further information if this applies.***
- Taxable fringe benefits for nonemployees. For information on the valuation of fringe benefits, see Pub. 15-B, Employer's Tax Guide to Fringe Benefits.
- Payments to an insurance salesperson who is not your common law or statutory employee. See Pub. 15-A for the definition of employee.
- Directors' fees.
- Fish purchases for cash.

Payments to attorneys

The term attorney includes a law firm or other provider of legal services. Attorneys' fees of \$600 or more paid in the course of your trade or business are reportable in Box 1 of Form 1099-NEC.

Gross proceeds paid to attorneys

Under Internal Revenue Code Section 6045(f), report in Box 10 of Form 1099-MISC payments to an attorney made in the course of your trade or business in connection with legal services, for example, as in a settlement agreement, unless the attorney's fees are reportable by you in Box 1 of Form 1099-NEC. Generally, you are not required to report the claimant's attorney's fees.

For example: An insurance company pays a claimant's attorney \$100,000 to settle a claim. The insurance company reports the payment as gross proceeds of \$100,000 in Box 10 of Form 1099-MISC. The insurance company does not have a reporting requirement for the claimant's attorney's fees subsequently paid from these funds.

These rules apply whether or not the legal services are provided to the payer and whether or not the attorney is the exclusive payee (for example: the attorney's and claimant's names are on one check) or other information returns are required for some or all of a payment under Internal Revenue Code Section 6041A(a)(1).

For example: a person who, in the course of a trade or business, pays \$600 of taxable damages to a claimant by paying that amount to a claimant's attorney is required to furnish Form 1099-MISC to the claimant under IRC Section 6041 and furnish Form 1099-MISC to the claimant's attorney under IRC Section 6045(f). For more examples and exceptions relating to payments to attorneys, see Regulations Section 1.6045-5.

However, these rules do not apply to wages paid to attorneys that are reportable on Form W-2 or to profits distributed by a partnership to its partners that are reportable on:

- Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc., or
- Schedule K-1 (Form 1065-B), Partner's Share of Income (Loss) From an Electing Large Partnership.

Payments to corporations for legal services

The exemption from reporting payments made to corporations does not apply to payments for legal services. Therefore, you must report attorneys' fees (in Box 1 of Form 1099-NEC) or gross proceeds (in Box 10 of Form 1099-MISC) as described earlier to corporations that provide legal services