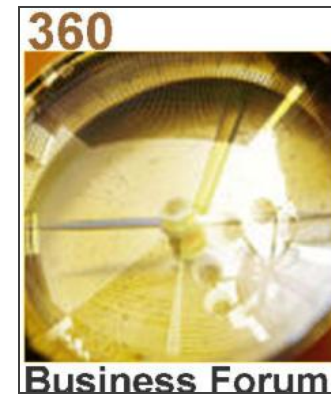


2011 Annual Payroll Taxation Update-a-palooza! ... *Fringe Benefits Taxation and More*



CPAs / Business Consultants



Welcome to our ...

**Annual
Payroll
Update**

December, 2011



Welcome!

Introduction

Presenters:



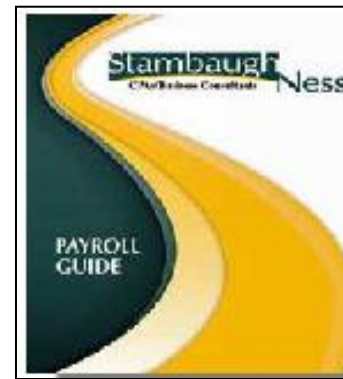
Sue Martin
Small Business
Tax Manager



Carson Buck, CPA
Tax Specialist

2011 Annual Payroll Taxation Update-a-palooza! ... *Fringe Benefits Taxation and More*

- Evaluations
 - CPE
- Questions and Answers
- Presentation Availability



Agenda

- Tax Changes
- Unemployment Compensation
- Independent Contractors
- Fringe Benefits
- Health Care Act (New W-2 Reporting)
- E-Verify System
- Form Updates

Tax Changes

– Reference Page A-1

FICA Changes:

Social Security Maximum Taxable Earnings increase from \$106,800 to \$110,100 for 2012

2011 – 4.2% - 6.2% ER/EE Deduction

2012 – 6.2% if no action by Congress

Proposed Legislation Changes (American Job Act of 2011):

2012 – 3.1%

EE Deduction Only

<u>PAYROLL AND OTHER TAX DATA - 2012</u>			
<u>FEDERAL</u>			
FICA (Social Security)		FICA (Medicare)	
Maximum Taxable Earnings:	\$110,100	Maximum Taxable Earnings:	No Limit
EE & ER Deduction:	6.2 %	EE / ER Deduction:	1.45%
Maximum Deduction EE/ER:	\$6,826.20	Maximum Deduction:	No Limit
Self-Employment Tax:	12.4%	Self-Employment Tax:	2.9%
FUTA (Employer-Paid)			
Maximum Taxable Earnings:		\$7,000	

Tax Changes

– Reference Page A-1

FUTA Changes – Surtax Expired 7/1/11 – From 6.2% to 6%

PA Changes

- 1/1/11 – 6/30/11 – 6.2% FUTA rate less Maximum State Credit of 5.4% = Net FUTA tax: .8%
- 7/1/11 – 11/17/11 - 6.0% FUTA rate less Maximum State Credit of 5.4% = Net FUTA tax: .6%
- 11/18/11 Retroactive for 2011 – 6.0% FUTA rate less Maximum State Credit of 5.1% = Net FUTA tax: .9%
- Schedule A of Form 940

1/1/11 – 6/30/11 – 1.1%

7/1/11 – 12/31/11 - 0.9%

MD - No State Maximum Credit Changes

1/1/11 – 6/30/11 - .8%

7/1/11 – 12/31/11 - .6%

PAYROLL AND OTHER TAX DATA - 2012

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Tax Changes

– Reference Page A-1

Standard Mileage Rate Increases

	<u>2010</u>	<u>2011</u>	<u>2012</u>
<ul style="list-style-type: none"> ▪ Standard Mileage Rate <i>7/1/11 mid-year change</i> 	.50	.51 / .555	.555
<ul style="list-style-type: none"> ▪ Moving & Medical <i>7/1/11 mid-year change</i> 	.1605	.19 / .235	.23
<ul style="list-style-type: none"> ▪ Charitable 	.14	.14	.14

PAYROLL AND OTHER TAX DATA - 2012

FEDERAL

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FUTA (Employer-Paid)	
Maximum Taxable Earnings:	\$7,000

Tax Changes

– Reference Page A-1

Unemployment Insurance

PA

Standard New Employer Rate 3.7030% no change

MD

Standard New Employer Rate 2.2% 2.6%

PAYROLL AND OTHER TAX DATA - 2012

FEDERAL

FICA (Social Security)		FICA (Medicare)	
Maximum Taxable Earnings:	\$110,100	Maximum Taxable Earnings:	No Limit
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Self-Employment Tax:	12.4%	Self-Employment Tax:	2.9%

FUTA (Employer-Paid)	
Maximum Taxable Earnings:	\$7,000

Indexed Employee Benefit Limits

Type of Limitation	2012	2011
Elective Deferrals (401(k) and 403(b); not including adjustments and catch-ups)	\$17,000	\$16,500
457(b)(2) and 457(c)(1) Limits (not including catch-ups)	\$17,000	\$16,500
Annual Defined Benefit Plan Limit	\$200,000	\$195,000
Annual Defined Contribution Plan Limit	\$50,000	\$49,000
Annual Compensation Limit	\$250,000	\$245,000
Annual Compensation Limit for Grandfathered Participants in Governmental Plans Which Followed 401(a)(17) Limits (With Indexing) on July 1, 1993	\$375,000	\$360,000
Highly Compensated Employee ("HCEs")	\$115,000	\$110,000
Individual Retirement Accounts ("IRAs"), for individuals 49 and below	\$5,000	\$5,000
SIMPLE Retirement Accounts	\$11,500	\$11,500
SEP Coverage	\$550	\$550
SEP Compensation	\$250,000	\$245,000
Tax Credit ESOP Maximum Balance	\$1,015,000	\$985,000
Amount for Lengthening of 5-Year ESOP Period	\$200,000	\$195,000
Excess Distribution Threshold	N/A	N/A
Qualified Police and Firefighters' DB Benefit Limit	N/A	N/A
Income Subject to Social Security Tax	\$110,100	\$106,800
FICA Tax for employers	7.65%	7.65%
Social Security Tax for employees	6.2%	4.2%
Medicare Tax for employees and employers	1.45%	1.45%
FICA Tax for self-employed workers	15.3%	13.3%
Social Security Tax for self-employed workers	12.4%	10.4%
Medicare Tax for self-employed workers	2.9%	2.9%

– Reference Page A-12

CATCH-UP CONTRIBUTIONS (no changes)

Individuals 50 years of age or over may make additional catch up contributions each year as follows:

- **ROTH, 401(k), 403(b), 457, SEP-408(k), SARSEP**
\$ 5,500
- **SIMPLE**
\$ 2,500
- **IRA's**
\$ 1,000

PA Unemployment Compensation

Brief Overview of Changes

(12 slides)

PA Department of Labor & Industry

Independent Contractors

- **Before you can know how to treat payments that you make to workers for services, you must first know the business relationship that exists between you and the person performing the services.**

The person performing the services may be:

- ✓ *An independent contractor*
- ✓ *A common-law employee*
- ✓ *A statutory employee, or*
- ✓ *A statutory nonemployee*

Independent Contractors

- **Why is it important to know whether an individual is an employee or non-employee?**

Payroll taxes

- ✓ **EMPLOYEE** works for and performs services under the control of the party which pays for the services
- ✓ **INDEPENDENT CONTRACTOR** is an individual in business for himself or herself, and performs the services free of control from the party which pays for the services



Independent Contractors

- **Determining if an individual is an Employee or Independent Contractor**
 - ✓ **BEHAVIORAL CONTROL** - Facts that show whether the business has the right to direct and control how the individual completes the work
 - ✓ **FINANCIAL CONTROL** - Facts that show whether the business has a right to control the business aspects of the individual's payments, invoicing, billing, etc.
 - ✓ **TYPE OF RELATIONSHIP** - Facts that show the type of relationship between the parties including insurance, benefits, etc.

Independent Contractors

Trouble Determining if an Employee or Independent Contractor?

- ✓ Upon request, the IRS will determine whether a worker is an employee by filing Form SS-8
- ✓ Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding

Workers Misclassification Act

Voluntary Classification Settlement Program (VCSP)

In exchange for employers that agree to prospectively treat the misclassified workers as employees the IRS:

- Employers will pay only 10% of the employment tax liability that may have been due on compensation paid to the workers in the most recent year
- Employers will not pay any interest and penalties on the liability, and will not be subject to an employment tax audit with respect to the classification of the workers for prior years.

How to file

Form 8952 to request participation in the VCSP

Pennsylvania Independent Contractors

PA Laws for Construction Workers *(for Purposes of Federal Employment Taxes and Income Tax Withholding)*

PA Construction Workplace Misclassification Act - New law (Act 72 of 2010) takes effect on February 10, 2011

THREE FACTORS TEST:

An individual who performs services in the construction industry for pay is an independent contractor if and only if the following three factors are met:

- The individual has a written contract to perform such services
- The individual is free from control or direction while performing services
- The individual is customarily engaged in an independently established trade, occupation, profession or business

Maryland Independent Contractors

The factors that must be considered include:

- Who has the right to control the work
- Who has the right to select the worker that will perform the duty
- How wages are paid
- Whether the work is part of the employer's regular business
- The intention of the parties when entering into the relationship

Rubin v. Weissman, 59 Md. App. 392 (1984);

L.M.T. Steel Products v. Peirson, 47 Md. App. 633, 635 (1981)

Payroll Saving Tips

Returning Heroes and Wounded Warrior Tax Credits

... New hiring tax credit that will provide an incentive for businesses to hire unemployed veterans.

- ***Short-term unemployed*** - A new credit of 40% of the first \$6,000 of wages (up to \$2,400) for employers who hire veterans who have been unemployed at least 4 weeks.
- ***Long-term unemployed*** - A new credit of 40% of the first \$14,000 of wages (up to \$5,600) for employers who hire veterans who have been unemployed longer than 6 months.



Payroll Saving Tips

Returning Heroes and Wounded Warrior Tax Credits

The *Wounded Warrior Tax Credit* will double the existing tax credit for long-term unemployed veterans with service-connected disabilities.

- Maintain the existing Work Opportunity Tax Credit for veterans with service-connected disabilities (currently the maximum is \$4,800).
- A new credit of 40% of the first \$24,000 of wages (up to \$9,600) for firms that hire veterans with service-connected disabilities who have been unemployed longer than 6 months.

Federal Deposits

January 1, 2011 Treasury no longer supports federal coupons unless:

- Under \$2,500 total tax liability per quarter - Pay when filing quarterly 941
- Under \$1,000 total tax liability per year - Pay when filing annual 944



MUST USE EFTPS

Reference B-1 thru B-4

MD Unemployment Compensation

Payments plans are available starting in 2011. In order to establish a payment plan, please contact the Skip Trace and Investigations Unit at 410-767-2525 or send an e-mail to the unit at: uitaxskip@dllr.state.md.us. At the end of the payment installments, interest will be waived as long as all payments were made according to the payment plan.

State Reciprocal Agreements

Pennsylvania has reciprocal tax agreements with Indiana, Maryland, Ohio, New Jersey, Virginia and West Virginia.

Maryland has reciprocal tax agreements with Pennsylvania, Virginia and West Virginia.

General Rule of Thumb



- If employee is a resident of a reciprocal state – choice may be made to either withhold the other state's tax rate or current state tax rate.
- Unless your employee is a resident of one of these states, you should withhold at the current state tax rate.

BE SURE TO CHECK EACH STATE FOR ADDITIONAL GUIDELINES.

Federal Mandatory Employer Postings

- New NLRA (National Labor Relations Act Poster)
- Equal Employment Opportunity is the Law - Includes NEW GINA in effect November 21, 2009
- Federal Minimum Wage 2012
- USERRA - Uniformed Services Employment and Reemployment Rights Act
- OSHA - Job Safety & Health Protection
- Employee Polygraph Protection Act
- Family and Medical Leave Act



State Mandatory Employer Postings

Maryland State Posting Requirements:	Pennsylvania State Posting Requirements:
<ul style="list-style-type: none"> • OSHA - Health and Safety Protection • Wage and Hour Act • Health Insurance • Equal Pay For Equal Work • Wage Payment and Collection • Unemployment Insurance • Workers' Compensation Insurance • Child Labor Law • Discrimination Notice 	<ul style="list-style-type: none"> • Child Labor Law • Schedule Of Minors • Unemployment Insurance • Discrimination Notice In Employment • Discrimination Notice In Public Accommodations • Right to Know Act • Pennsylvania Minimum Wage • Workers' Compensation • Equal Pay Law • Pennsylvania No Smoking Poster

For other states, please see your state labor and industry website – Reference B-17

Fringe Benefits

WHERE TO GET INFORMATION

Newly Released – May 24, 2011

Publication 15-B

Employer's Tax Guide to Fringe Benefits

www.irs.gov – keyword “fringe benefits”

Fringe Benefits

WHAT IS A FRINGE BENEFIT?

- Cash
- Property
- Services
- Wages (i.e. Bonus)

Fringe Benefits

EXAMPLES OF FRINGE BENEFITS

- Employer provided cars
- Moving expense reimbursements
- Tickets to entertainment or sporting events
- Qualified tuition reimbursements
- Discounts on property or services
- Meals
- Employer paid professional memberships and dues



Fringe Benefits

ARE FRINGE BENEFITS TAXABLE?

- Taxable to employee unless specifically excluded by IRC
- Taxable means subject to withholding and reported on W-2 in year benefit provided

VALUING NON-CASH BENEFITS – FMV

What it would cost the employee to buy the benefit from an unrelated party

Fringe Benefits

HOW ARE FRINGE BENEFITS PAID?

Accountable v. Non-accountable Plans

ACCOUNTABLE PLAN – (All conditions must be met)

- There must be a business connection for the expense
- Employee must substantiate the expense
- Any excess payments made to the employee above the substantiated expense must be returned to employer in a reasonable time frame

Fringe Benefits

HOW ARE FRINGE BENEFITS PAID?

Accountable v. Non-accountable Plans

NONACCOUNTABLE PLAN – Fully taxable

A non-accountable plan is a reimbursement plan or policy which does not meet all the requirements for an accountable plan

Fringe Benefits

NONTAXABLE FRINGE BENEFITS

- No additional cost services
- Qualified employee discounts
- Working condition fringe benefits
(under an accountable plan)
- De minimis
- Qualified transportation benefits
(limited unless under an accountable plan)
- Qualified moving expenses
(under an accountable plan)

Fringe Benefits

NO ADDITIONAL COST SERVICES – Free services offered to employees

Nontaxable if following conditions are met:

- Service regularly offered for sale to customers
- Employer bears no substantial additional cost or lost revenue
- Available to all employees

Example:

- **Hotel chain offers an employee free hotel room**

Fringe Benefits

QUALIFIED EMPLOYEE DISCOUNTS -

Discounted goods or services offered to employees

Nontaxable (not required to report FMV) if following conditions are met:

- Discount does not exceed gross profit % when goods are sold to customers
- Cannot exceed 20% of the price at which the services are offered to customers – any access above this amount is taxable
- Available to all employees on equal terms

Fringe Benefits

WORKING CONDITION FRINGES

Nontaxable if paid under an *Accountable Plan*

- Business use of company car
- Chauffeur or body guard provided for security protection
- Dues and membership fees for professional organizations



- Job-related education
- Cell Phones

Fringe Benefits

WORKING CONDITION FRINGES

Nontaxable if paid under an *Accountable Plan*

Business use of company car

Occasional/Infrequent personal brief side trips (i.e. run errand) are considered de minimis

Taxable – Personal Use of Employer Provided Vehicle

Any use that is not substantiated as business use

See Payroll Guide B-32 for allowable Valuation Methods for amounts to include in W-2

Special Rules for Automobile Salespeople

Fringe Benefits

WORKING CONDITION FRINGES

Nontaxable if paid under an *Accountable Plan*

- *Dues and membership fees*
- For employee only – not family members
 - Business Leagues
 - Professional Organizations
 - Trade Associations

DOES NOT INCLUDE:

- Country Club Dues
- Golf Club Dues
- Hotel and Airline Clubs

Fringe Benefits

WORKING CONDITION FRINGES

Nontaxable if paid under an *Accountable Plan*

Employer provided reimbursement for cell phones

Changes 9/15/2011

Personal use considered an excludable de minimis fringe benefit as long as primary use of phone is for business reasons

Fringe Benefits

WORKING CONDITION FRINGES

Main Rule of Thumb

If paid under an accountable plan and expense can be deducted on employee's individual return as a business expense – generally considered nontaxable

Example of Taxable Benefit:

A bank offering employees a safety deposit box rental is not considered a working condition fringe benefit – *The value of an employer provided safety deposit box is taxable and not considered a working condition fringe benefit because the employee could not deduct the cost of the safety deposit box as business expense even though it might be deductible as a personal miscellaneous deduction.*

Fringe Benefits

DE MINIMIS FRINGES – certain property or services of small value

Nontaxable if of small value (\$35)

- Personal use of company copier
- Parties and picnics for all employees
- Occasional tickets to sporting or entertainment events
- Holiday gifts of small value (turkey, ham)
- Occasional meals for employees who must work late

ALWAYS TAXABLE

Cash and Cash Equivalents (gift cards)

Fringe Benefits

QUALIFIED TRANSPORTATION

Nontaxable

- Vanpool to provide commuting to and from home:
 - Must seat 6 adults
 - 80% of mileage is used to commute employees
 - ½ of seating capacity is used by employees
- Transit passes, vouchers, tokens or fare cards up to \$125 a month
- Parking reimbursements up to \$240 a month
 - Parking must be near the employer's premises or at a "park and ride" facility.
- Generally no written plan required

Fringe Benefits

MOVING EXPENSES – job related move

Initial test of deductibility:

- **Distance** – *50 miles* farther from the employee's old residence than previous workplace (i.e.... if the employee's old job was 15 miles away current job must be 65 miles away)
- **Time** – *During the 12-month* period immediately following the move, the employee must work full-time for *at least 39 weeks* in the general location of the new workplace

Fringe Benefits

MOVING EXPENSES – job related move

Deductible Moving Expense

- Transportation

Household goods – All reasonable expenses incurred in packing and moving household goods and personal effects including lodging (*but not meals*)

- In-transit Storage

Storage costs if they are incurred within 30 days after the goods and effects are moved from the old residence and before delivery to new residence



Fringe Benefits

MOVING EXPENSES – job related move

Deductible Moving Expenses

REASONABLE EXPENSES ONLY

- Shortest and most direct route used
- No lavish or extravagant lodging expenses

Fringe Benefits

MOVING EXPENSES – job related move

Nondeductible Moving Expenses

- Cost of meals
- Pre-move house hunting expenses
- Temporary living expenses after starting work
- Real estate expenses for selling/buying a residence



Fringe Benefits

MOVING EXPENSES – job related move

Taxable Moving Expenses

- Non-accountable plan
- Excess reimbursements
- Time & distance tests not met

Fringe Benefits

ACCIDENT OR HEALTH

Nontaxable to employee

Contributions you make to an accident or health plan for an employee:

- Cost of accident or health insurance including qualified long-term care insurance
- Contributions to a separate trust or fund that directly or through insurance provides accident or health benefits



Fringe Benefits

ACCIDENT OR HEALTH

Nontaxable to employee

Applies to payments you directly or indirectly make to an employee under an accident or health plan for employees that are either of the following:

- Payments or reimbursements of medical expenses.
- Payments for specific injuries or illnesses

Fringe Benefits

ACCIDENT OR HEALTH

Nontaxable to employee ... Who is an employee:

- A current common-law employee
- A full-time life insurance agent who is a current statutory employee
- A retired employee
- A former employee you maintain coverage for based on the employment relationship
- A widow / widower of an individual who died while an employee
- A widow / widower of a retired employee
- For the exclusion of contributions to an accident or health plan, a leased employee who has provided services to you on a substantially full-time basis for at least a year if the services are performed under your primary direction or control

Fringe Benefits

MEALS & LODGING – employer-provided

Nontaxable

MEALS

- The meals are furnished on the employer's business premises; *and*
- They are furnished for the convenience of the employer

LODGING

- The lodging is furnished on the employer's business premises
- The lodging is for employer's convenience
- Requirement for employment

Fringe Benefits

Proper W-2 Reporting

Box 12

Code **C** – Taxable benefit of group term-life insurance over \$50,000. This amount is already included as part of your taxable wages in Boxes 1, 3, and 5

Code **L** – Non-taxable reimbursements for employee business expenses

Code **P** – Non-taxable reimbursements for employee moving expenses, if the amounts were paid directly to the employee

Box 14 – Other information – Taxable Items

HEALTH CARE: Patient Protection and Affordable Care Act – 2011 Changes

Over the Counter Medicines: The cost of over-the-counter drugs not prescribed by a physician may no longer be reimbursed through a health flexible spending account (FSA), a health reimbursement arrangement (HRA) or a health savings account (HSA).

Non-Qualified HSA and MSA Distributions: The excise tax on distributions from health savings accounts (HSAs) and Archer medical savings accounts (MSAs) not used to pay qualifying medical expenses is increased to 20 percent (from 10 percent).

The Affordable Care Act states that the W-2 reporting requirement is effective beginning January 1, 2011; however, the IRS announced that reporting will not be required earlier than 2012.

HEALTH CARE: Patient Protection and Affordable Care Act – 2012 Changes

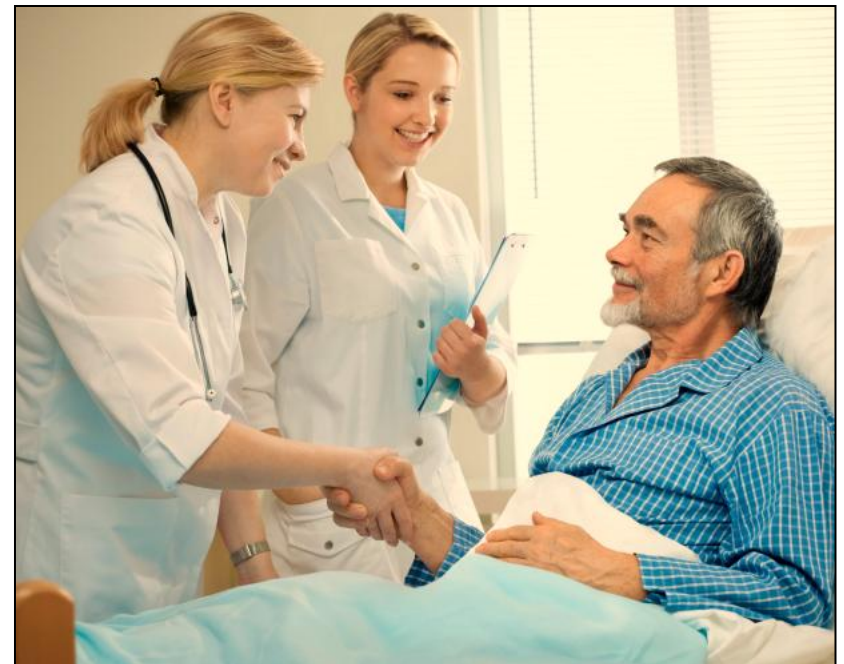
<i>Health Care Reform Requirement</i>	<i>Effective Date</i>	<i>Employer Action</i>
<p>Appeals Process and External Review: Appeals process (includes internal appeals and external review) required to allow for appeals of coverage determinations and claims.</p>	January 1, 2012	Some requirements were effective September 23, 2010 (see last item under 2010 requirements). The new rules are fully effective January 1, 2012.
<p>Reporting the Cost of Employer Coverage: Beginning with the 2012 tax year, every employer must report the cost of employer-sponsored health coverage on employees' W-2s. So the first reports will likely be due in January 2013.)</p>	January 1, 2012	<p>Work with payroll department or vendor to ensure compliance with new reporting requirement.</p> <p><u>Note:</u> The IRS has issued guidance on how to compute the aggregate cost and what coverages are counted.</p>

HEALTH CARE: Patient Protection and Affordable Care Act – 2012 Changes

<i>Health Care Reform Requirement</i>	<i>Effective Date</i>	<i>Employer Action</i>
<p>Coverage Summaries: Insurers and sponsors of self-insured plans must provide summaries of benefits and coverage to all participants, based on a uniform format to be developed by HHS.</p>	<p>March 23, 2012</p>	<p>Sponsors of insured plans should work with the insurer to make sure the required coverage summary is provided. Sponsors of self-insured plans must themselves ensure compliance.</p> <p><u>Note:</u> HHS has issued model summaries and templates.</p>
<p>Prior Notice of Plan Changes: Group health plans must provide 60 days advance notice of any material change to the plan or insurance coverage.</p>	<p>March 23, 2012</p>	<p>If covered by this rule, provide 60 days advance notice of any material plan amendment.</p> <p><u>Note:</u> Under agency guidance, only certain mid-year changes require prior notice.</p>

HEALTH CARE: Patient Protection and Affordable Care Act

2013 – 2018 Updates & Actions Needed
See Supplemental Handouts



HEALTH CARE: Patient Protection and Affordable Care Act

Small Business Health Care Tax Credit

- Credit created to help small businesses and small tax-exempt organizations afford the cost of covering their employees
- Targeted for those with low- and moderate-income workers
- Credit is available to small employers that pay at least half the cost of single coverage for their employees

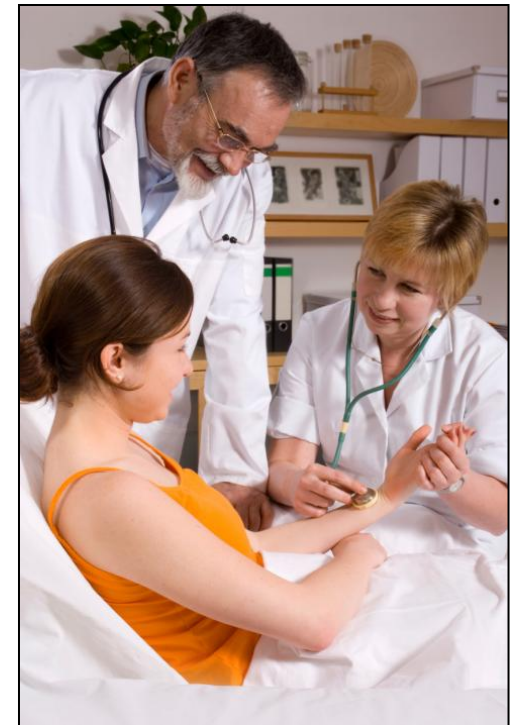
Claiming the Credit

- Both small businesses and tax-exempt organizations will use new Form 8941 to calculate
- Tax-exempt organizations will instead claim the small business health care tax credit on a revised Form 990 T

HEALTH CARE: Patient Protection and Affordable Care Act

Reporting of Employer Provided Health Care Coverage on Form W-2

- General information
- When reporting is required
- Which employers are subject to reporting
- Transitional relief
- Effects on Form W-2
- Coverage and amounts to include
- Where to go for more information



HEALTH CARE: Patient Protection and Affordable Care Act

Health Care Coverage on Form W-2

- Amounts continue to be not taxable just as in the past
- Value continues to be excludable from the employee's income
- Is for **informational purposes only**
- Box 12 of the Form W-2, Code DD

HEALTH CARE: Patient Protection and Affordable Care Act

When to Include the Benefits

- Optional for all employers in 2011
- Mandatory for certain employers starting in 2012
- Transitional relief may apply to small employers in 2012
 - ❑ FEWER THAN 250 FORMS W-2
 - ❑ TERMINATED EMPLOYEES - WHO WANT W-2 BEFORE YEAR END

HEALTH CARE: Patient Protection and Affordable Care Act

Not required, but can be included:

- Multi-employer plans
 - Health Reimbursement Arrangements
 - Dental and vision plans not in another plan
 - Self-insured plans of employers not subject to COBRA continuation coverage or similar requirements



HEALTH CARE: Patient Protection and Affordable Care Act

Employers Subject to Reporting

- Employers who provide health care coverage
- Includes federal, state and local entities

Does not include coverage for military and their families

HEALTH CARE: Patient Protection and Affordable Care Act

Reporting on the Form W-2

- Code “DD” in Box 12
- No reporting on Form W-3
- Valuation reporting alone does not generate Form W-2
- Common paymaster responsibility
- Predecessor/Successor responsibility

HEALTH CARE: Patient Protection and Affordable Care Act

What to Report on the Form W-2



- Aggregate (Total) reportable cost of the coverage
- Any employer-sponsored coverage except:
 - Archer Medical Savings Accounts
 - Health Savings Accounts
 - Salary reductions for flexible spending arrangements

HEALTH CARE: Patient Protection and Affordable Care Act

Exclusions

- Coverage for long-term care
- HIPAA “excepted benefits”
- Accidental – Supplemental or Secondary Insurance
- Dental and vision coverage
- Specialized coverage if paid on an “after tax” basis

HEALTH CARE: Patient Protection and Affordable Care Act

Amount to Report on Form W-2

- Amounts paid by employer and employee (premiums whether or not pre-tax)
- Reporting does not impact coverage taxability
- Includes insurance total amounts for spouse, dependents, etc.

HEALTH CARE: Patient Protection and Affordable Care Act

Methods of Valuation

- Premium Charged Method (actual amount charged)
- COBRA Applicable Premium Method (2% admin cobra charge would not be included in the cobra applicable premium)
- Modified COBRA Premium Method (where the employer subsidizes COBRA premiums or bases them on premiums calculated in a prior year)

Note: Self-insured plans would use the COBRA method - see statues for further methods for self-insured plans

HEALTH CARE: Patient Protection and Affordable Care Act

More Information

- ACA pages of IRS.gov
- Information on Provision 9002
- Frequently asked questions
 - Notice 2010-69
 - Notice 2011-28

1099 Reporting

Reporting Changes for 2012

- All payments of \$600 or greater for services or merchandise will need to be reported

Previous law just included services – current law will include both services and merchandise (e.g. inventory, office supplies)

- Payments to corporations will no longer be exempt from the reporting requirements
- If no W-9 is received backup withholding required at 20%
- Increased failure to file penalties from 2011

1099 Reporting

Follow Previous Rules for 1099 Reporting

Entities who have paid (in the course of their trade or business):

\$10 or more in Royalties or Dividends

\$600 or more

- Rents
- Services
- Prizes or awards
- Medical or health care payments
- Gross proceeds to an attorney
- Certain other payments



1099 Reporting

What payments Must Be Reported?

- Certain payments to individuals or partnerships
- Certain payments to corporations
 - Gross proceeds to attorneys (box 14)
 - Attorneys' fees (box 7)
 - Payments for medical or healthcare services (box 6)

REVISED DUE DATES:

- Recipient due by 2/15/12
- IRS – Paper Copy 2/28/12 – Electronically 4/2/12

1099 Reporting

General Exceptions to Filing Form 1099-MISC

- Payments to a Corporation
 - Except Legal or Medical Service Corporations
- Payments to tax-exempt and government & state
- Payments for merchandise
 - Examples:
 - Office Supplies
 - Cleaning Supplies
- Payments to employees; such as fringe benefits or travel reimbursements

Contractor Withholding Rules

Tax Increase Prevention and Reconciliation Act of 2005

Added section 3402(t) to Internal Revenue Code

- Generally requires 3% income tax withholding by government entities on payments for property and services
- Originally applied to payments made after December 31, 2010. Final regulations May 9, 2011, delays implementation until after December 31, 2012

Cobra Credit Updates

Cobra Premium Credit - 65% of the applicable premium

Expires November 2011

- **COBRA coverage period pertains to the reduction of hours event**

Expires August 2011

- **Pertains to an involuntary termination event**

Military Spouse Residency Relief Act

- **Currently military service members can keep their state of legal residence for tax, voting, car registration and other purposes, regardless where they are stationed.**
- **The new law says the non-military spouse can now retain the same home state of residence as the military spouse, as long as the non-military spouse's sole reason for leaving that state was due to a permanent change of station (PCS) for the military spouse.**

MD Local Income

No Changes

Except:

Local Tax Rate Increase - For tax year 2011 Baltimore City has increased their local tax rate to 3.20%.

Your local income tax is based on where you live - not where you work, or where your tax preparer is located. Be sure to use the correct rate for the local jurisdiction in which you live.

Maryland EITC Requirements

Maryland EITC Notice Requirements Effective January 2012

- Employers must provide written or electronic EITC notice to employees who may be eligible for the state earned income tax credit
- Must be provided by December 31 of each calendar year
- May provide notice to all employees or just eligible employees

E-Verify

E-Verify is an Internet-based system that allows businesses to determine the eligibility of their employees to work in the United States. E-Verify is fast, free and easy to use – and it's the best way employers can ensure a legal workforce.

www.uscis.gov/everify

The screenshot shows a Windows Internet Explorer browser window displaying the USCIS E-Verify website. The browser's address bar shows the URL: <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=e94888e60a405110VgnVC>. The browser's title bar reads "USCIS - What is E-Verify? - Windows Internet Explorer".

The website's navigation menu includes: FORMS, NEWS, RESOURCES, LAWS, OUTREACH, and ABOUT US. The main content area is titled "What is E-Verify?" and features a sub-header "What is E-Verify?" with a printer-friendly icon. Below the sub-header is an image of a computer monitor displaying the E-Verify logo. The text explains that E-Verify is an Internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility.

The page also includes sections for "Why E-Verify?" and "Who Uses E-Verify?". The "Why E-Verify?" section states that the U.S. Department of Homeland Security is working to stop unauthorized employment and that using E-Verify helps companies become part of the solution. The "Who Uses E-Verify?" section notes that more than 288,000 employers, large and small, across the United States use E-Verify to check the employment eligibility of their employees, with about 1,200 new businesses signing up each week.

On the right side of the page, there is a "Start Here" section with links to "Enroll in E-Verify", "Log in to E-Verify", "Take a FREE Webinar", and "Contact E-Verify". Below this is a "Related Links" section with a link to "I-9, Employment Eligibility Verification" and a "Multimedia" section with links to "Video: How to Create a Case" and "Video: How to Respond to a TNC". At the bottom right, there is a link to "Add Our RSS Feed".

The browser's status bar at the bottom indicates "Internet | Protected Mode: Off" and a zoom level of "125%".

Maintaining Payroll Records

The IRS requires employers to maintain payroll records for at least four years after the later of:

- The due date of the related payroll tax returns
- The date the payroll taxes were paid or filed

Note: State/locality retention policies may differ from the IRS

Act 32: PA Local Income Tax Reform

**Al Timko – Executive Director,
York Adams Tax Bureau**

Effective January 1, 2012

Major changes:

- Will be required to withhold the applicable resident rate (or non-resident tax, if greater) from employee's pay.
- Employers will be required to receive a Certificate of Residency as an addendum to the federal form W-4 from each employee.
- Will be allowed to pay local withholding into one collection place – “Wal-Mart Special”. You will need to file “Notice of Intention to file Combined Reporting”.
- All local tax collectors will offer electronic filing for employer returns in 2011.

Note: Some counties required mandatory online filing beginning in 2011.

Form Updates

W-2

Mandatory Efiling if filing more than 250 W-2s

PA – Mandatory Efiling if filing more than 250 W-2s
Reference D-28

MD – Mandatory Efiling 25 or more (change from last year of 100)

Box 9 – No longer includes “Advance EIC Payments”

Box 12 – Reference Box Additions

DD – Health Care Coverage

EE – Designated Roth Contr. under government sec. 457(b) plan

Form Updates

W-3

Identify what type of employer

Excluded in 2011 – Box 9 “Advanced EIC”

Box 12B “Hire Exempt Wages & Tips”

Form 940

Added Line 7b & 7d to reflect expired surcharge

Expect form change for different FUTA amounts from certain state maximum credit reductions

Form 1096

Additional boxes for type of form

Form Updates

Form 1040 – Schedule H – Household Employees

Excluded:

Line 7 – Advanced Earned Income Credits

Line 8 – Net Taxes

Form W-4V (Voluntary Withholding on Government Payments)

Box 6 – updated for applicable % changes

Thank You!



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