

HUNTER HAGAN & COMPANY, LTD.

2010 EMPLOYER TAX UPDATE

WITHHOLDING TAXES

As an employer, you are responsible to withhold and/or pay various types of Federal and State taxes on your employee's salaries. Here is a brief description of each kind of tax.

FEDERAL INCOME TAX WITHHELD

Federal income taxes are required to be withheld from all employees unless they are exempt from these withholdings (as indicated on Form W-4). Each employee must complete a Form W-4 and submit it to the employer before being paid. An employer determines how much to withhold by using the Internal Revenue Service's Publication 15, Circular E, Employer's Tax Guides. This publication is available at www.irs.gov/formspubs/index.html.

F.I.C.A. WITHHELD

F.I.C.A. taxes consist of Social Security and Medicare taxes withheld from each employee. The rate for 2010 is 6.2% of the first \$106,800 of annual wages for Social Security taxes and 1.45% of *all earning* for Medicare taxes. The employer is required to match the employee's contributions dollar for dollar. Federal taxes, F.I.C.A. taxes withheld and the employer matching the F.I.C.A. taxes are required to be reported quarterly on Form 941.

Self-employed individuals pay 12.4% of the first \$106,800 of self-employment earnings for social security taxes and 2.9% of all self-employment earnings for Medicare taxes.

FEDERAL TAX DEPOSIT REQUIREMENT

The federal income taxes withheld and the F.I.C.A. taxes withheld, along with the employer's "matching" of F.I.C.A. taxes must be deposited as required at a Federal Depository, unless the employer is required to deposit electronically.

2010 DEPOSIT RULES

The following EFTPS (Electronic Federal Tax Payment System) rules went into effect on **January 1, 2010**. If the aggregate of your corporate income tax, corporate estimated taxes, payroll taxes and tax deposits in calendar year 1998 or any calendar year thereafter exceeded \$200,000, you are required to make ALL federal tax deposits (not just withhold taxes) electronically. A special sign up form should be completed for the IRS and requires information regarding your banking institution. If your aggregate tax deposits first exceed \$200,000 in 2001 or a later year, you must begin making all federal tax deposits electronically in the second year after the year in which the \$200,000 threshold was met. A taxpayer that exceeds the

\$200,000 threshold and is required to deposit electronically, may not resume making paper coupon deposit if its deposits fall below \$200,000 in a later year. Most (but not all) payroll services comply with these requirements and will provide you with this service for all tax payments.

If you do not fall under the EFTPS rules, you will deposit under a separate schedule.

The IRS will notify you each November whether you are a monthly or semi-monthly depositor for the coming calendar year. Call us if you are unsure as to when to make your deposits.

ARIZONA INCOME TAX WITHHELD

Arizona income taxes are withheld based upon a percentage of the Federal income taxes withheld. If the employee earns less than \$15,000 per year, 10% of the Federal income taxes can be withheld. If earnings exceed \$15,000, the withholding can be 19%, 23%, 25%, 31% or 37%. Form A-4 should be completed annually to elect the appropriate withholding rate for the state.

STATE TAX DEPOSIT REQUIREMENTS

The state is also requiring that tax payments be made electronically if your average quarterly state withholding tax liability for the

preceeding year is \$20,000 or more. Again, your payroll service can help you comply with these regulations.

Most small employers may remit taxes withheld quarterly with the filing of Form A1-QRT. Late or incomplete filing of this report may result in penalties and interest.

We recommend deposits be made on the same schedule for the federal deposits.

UNEMPLOYMENT TAXES

FEDERAL UNEMPLOYMENT TAXES (FUTA)

Of the first \$7,000 of each employee's annual wages, .8% is paid to the Internal Revenue Service. These amounts are usually deposited quarterly and are reported annually (on a calendar year basis) on Form 940 or Form 940EZ.

Employers are required to make a quarterly deposit for unemployment taxes if accumulated tax exceeds \$500.00.

STATE UNEMPLOYMENT TAXES (SUTA) (DEPT. OF ECONOMIC SECURITY)

The State Unemployment Tax Fund is paid on a quarterly basis. The rate is determined by the state (2% for a new employer), on the

first \$7,000 of wages paid to each employee annually. This is *state mandated insurance*.

Based upon the state's experience with the employer, an annual notice reflecting a new rate factor is sent to the employer. Payments are remitted quarterly with Form UC-018.

PAYROLL SERVICES

There are various payroll services which will assist you with most of your legal obligations related to your payroll. We *highly recommend* you retain one of these services. For a small fee they help you track all of the record keeping obligations, ensure deposits are made in a timely manner and complete and file all required quarterly and annual forms. They can help administer other employee benefit programs such as Section 401(k) plans and medical premium withholdings.

INDEPENDENT CONTRACTORS

There are numerous factors which determine whether an individual is classified as an independent contractor or your employee.

BE VERY CAREFUL before making this determination yourself. Here are just *a few* of the issues involved:

*Does the person render services which only they personally can provide?

*Do they provide the same service to other employers at the same time?

*Do they provide their own tools?

*Can they follow their own set hours of work?

Failure to properly classify someone as your employee can be very costly and the burden of proof falls to you, the employer, despite what the individual involved may have told you regarding their responsibilities. You could be required to pay back taxes.

FORM W-9

This form should be completed by any entity or individual, other than employees, performing services for the company. If the individual fails to furnish a taxpayer identification number, you are required to withhold 28% of their payment for federal income taxes. This backup withholding is reported on Form 945 by the payer and on Form 1099 to the payee.

FORM 1099/1096

Form 1099-MISC reports payments to any (independent contractor) individual or unincorporated company that received at least \$600 of rents or services during the calendar year. Form 1099-MISC must be issued for payments to attorneys of at least \$600, without regard to whether the payment was made to a corporation. Form 1099-INT or 1099-DIV must also be issued for interest and dividend payments of at least \$10 during the year.

Form 1099's for 2009 are required to be provided to the recipient by January 31, 2010 and are required to be sent to the IRS by February 28, 2010. Form 1096 is the transmittal form which must be submitted to the IRS along with the corresponding Form 1099. The payer may be subject to penalties if a required Form 1099 is not filed.

The telephone number for a contact person is now required on all 1099 forms sent to a recipient (also on Forms W-2G and 1098's).

SUMMARY FILINGS	
<u>Quarterly</u>	<u>Annually</u>
941	W-2
UC-018	W-3
A1-QRT	A1-R
FUTA	940
	945
	1096
	1099
Deposits -- As Required	

OTHER FORMS

FORM W-2/W-3

This form must be provided to each employee annually by January 31st of the next year. Copies are sent to the Social Security Administration and the Arizona Department of Revenue along with the transmittal Form W-3 and Form A1-R, respectively.

FORM 945

Distributions from qualified retirement or pension plans are subject to a mandatory 20% withholding of federal income taxes unless the employee decides to have the distribution paid directly to an IRA or other qualified plan. Such withholding is reported annually for any year in which a distribution is made.

FORM I-9

Employers must verify that new employees hired are eligible to work in the United States. Form I-9 must be completed and kept as part of the employee's personnel file for three years after the date the person begins work or one year after the person's employment is terminated (whichever is later). This form must be completed within three business days of an employee's hire date.

COMPENSATION

MINIMUM WAGE

The US Department of Labor requires employers to pay a minimum wage of \$7.25 per hour. However, certain state and local jurisdictions may have a higher minimum wage rate. Effective 1-1-09, AZ minimum wage is \$7.25/hr.

PERSONNEL MANUALS

In an Arizona court case, it was held that a personnel manual may create an implied employee contract. As the result of this decision, it may be a prudent time to

have your current and superceded personnel manuals reviewed for any potential problems. If the indentified problems are currently resolved, you may be able to avoid costly litigation in the future.

OVERTIME PAY

An employer is required to pay time and one-half for all employees that work more than 40 hours per week unless you control overtime hours **by giving time off during the same week** the overtime was worked. Certain state and local jurisdictions may impose additional overtime requirements. In limited instances, certain professional and management positions are not required to be paid overtime. An employer should assume that all employees are subject to the overtime rules. If there are any questions regarding overtime and which occupations may be exempt, please call our office.

WORKERS COMPENSATION INSURANCE

Each employer is required to insure their employees against job related injuries either through Arizona State Compensation Fund or through their own insurance carrier. The rates are competitive and employers can ask their insurance agent and the State Compensation Fund for bids. The rates are based upon the type of work performed by the employees and the respective risk of injury for the work performed.

For example, office workers are generally insured at a much lower rate than truck drivers. Most carriers require a deposit and let the employer elect to pay premiums quarterly, semi-annually or annually.

Additionally, fringe benefits which result in salary reductions, such as cafeteria plans, must be included in wages reported for purposes of determining worker's compensation premiums.

NEW HIRE REPORTING

All employers doing business in the State of Arizona must report the hiring (or rehiring) of any person who resides or works in Arizona and to whom the employer anticipates paying compensation. The new hires can be reported directly on-line with the Arizona Department of Economic Security at <http://www.az-newhire.com>. Other states have similar reporting requirements.

The Legal Arizona Workers Act (LAWA) requires that, after January 1, 2008, all employers use the federal program, E-Verify, to verify the employment of all newly hired employees. Always keep in the mind the E-Verify can be use only for new hires. E-Verify cannot be used for existing employees and it cannot be use to screen applicants. The person must be hired and should have completed an I-9 form before the company runs the name through E-Verify. The link to register for E-Verify is

<https://e-verify.uscis.gov/enroll>

UNCASHED PAYROLL CHECKS

Employer must report and remit to the State of Arizona any uncashed payroll checks that have been outstanding for 5 or more years. These checks are reported on a Form 601.

SOCIAL SECURITY NUMBER VERIFICATION

All employers are now required to verify that their employee's names match the social security numbers on record with the Social Security Administration (SSA). The SSA can impose a \$50.00 fine per incident where a name does not match the SSN on record when the W-2's are filed. To verify your employee's names and SSN's go to www.ssa.gov/employer/ssnv.htm.

AUDITS!

As an employer, your are subject to audit by the Internal Revenue Service, the Department of Labor, the State of Arizona, the Department of Economic Security and your worker's compensation insurance carrier. It is imperatvie that you maintain proper, neat, and accurate payroll records for each employee and for each payroll on a monthly, quarterly and annual basis. We can help you set up the proper payroll records. We can prepare the quarterly and annual returns, if you prefer.

MISCELLANEOUS LAWS

The following are government rules and regulations which

depending on your size, affect how you conduct your business. This list is not intended to be comprehensive and additional rules and regulations may be imposed by the state and local jurisdictions.

AGE DISCRIMINATION

20 or more employees

OSHA REGULATIONS

all employers

FAMILY LEAVE RULES

50 or more employees

NOTICE OF PLANT

CLOSINGS

100 or more employees

DISABILITY REGULATIONS

The employment provisions apply to the employers with 15 or more employees, while the public accommodation provisions apply to all businesses.

COBRA

(group health insurance)

20 or more employees

STATE & LOCAL REGULATION

Certain state and local jurisdictions may impose substantial additional regulations beyond those imposed under Federal law.

This is a limited overview of the rules and regulations that apply to employers. There may be additional taxes or considerations that are not listed here such as special rules and regulations, child labor laws and other rules for specific industries and businesses. If you have any questions, relating to these matters, we will be happy to discuss them with you.

Guide to Information Returns (If any date shown falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.)

Form	Title	What to Report	Amounts to Report	Due Date	
				To IRS	To Recipient (unless indicated otherwise)
1042-S	Foreign Person's U.S. Source Income Subject to Withholding	Income such as interest, dividends, royalties, pensions and annuities, etc., and amounts withheld under Chapter 3. Also, distributions of effectively connected income by publicly traded partnerships or nominees.	See form instructions	March 15	March 15
1098	Mortgage Interest Statement	Mortgage interest (including points) and certain mortgage insurance premiums you received in the course of your trade or business from individuals and reimbursements of overpaid interest.	\$600 or more	February 28*	(To Payer/Borrower) January 31
1098-C	Contributions of Motor Vehicles, Boats, and Airplanes	Information regarding a donated motor vehicle, boat, or airplane.	Gross proceeds of more than \$500	February 28*	(To Donor) 30 days from date of sale or contribution
1098-E	Student Loan Interest Statement	Student loan interest received in the course of your trade or business.	\$600 or more	February 28*	January 31
1098-T	Tuition Statement	Qualified tuition and related expenses, reimbursements or refunds, and scholarships or grants (optional).	See instructions	February 28*	January 31
1099-A	Acquisition or Abandonment of Secured Property	Information about the acquisition or abandonment of property that is security for a debt for which you are the lender.	All amounts	February 28*	(To Borrower) January 31
1099-B	Proceeds From Broker and Barter Exchange Transactions	Sales or redemptions of securities, futures transactions, commodities, and barter exchange transactions.	All amounts	February 28*	February 15**
1099-C	Cancellation of Debt	Cancellation of a debt owed to a financial institution, the Federal Government, a credit union, RTC, FDIC, NCUA, a military department, the U.S. Postal Service, the Postal Rate Commission, or any organization having a significant trade or business of lending money.	\$600 or more	February 28*	January 31
1099-CAP	Changes in Corporate Control and Capital Structure	Information about cash, stock, or other property from an acquisition of control or the substantial change in capital structure of a corporation.	Amounts of stock or property valued at \$100 million or more	February 28*	(To Shareholders) January 31
1099-DIV	Dividends and Distributions	Distributions, such as dividends, capital gain distributions, or nontaxable distributions, that were paid on stock and liquidation distributions.	\$10 or more, except \$600 or more for liquidations	February 28*	January 31**
1099-G	Certain Government Payments	Unemployment compensation, state and local income tax refunds, agricultural payments, and taxable grants.	\$10 or more for refunds and unemployment	February 28*	January 31
1099-H	Health Coverage Tax Credit (HCTC) Advance Payments	Health insurance premiums paid on behalf of certain individuals.	All amounts	February 28*	January 31
1099-INT	Interest Income	Interest income.	\$10 or more (\$600 or more in some cases)	February 28*	January 31**
1099-LTC	Long-Term Care and Accelerated Death Benefits	Payments under a long-term care insurance contract and accelerated death benefits paid under a life insurance contract or by a viatical settlement provider.	All amounts	February 28*	January 31
1099-MISC	(Also, use to report direct sales of \$5,000 or more of consumer goods for resale.)	Rent or royalty payments; prizes and awards that are not for services, such as winnings on TV or radio shows.	\$600 or more, except \$10 or more for royalties	February 28*	January 31**
		Payments to crew members by owners or operators of fishing boats including payments of proceeds from sale of catch.	All amounts		
		Section 409A income from nonqualified deferred compensation plans (NQDCs).	All amounts		
		Payments to a physician, physicians' corporation, or other supplier of health and medical services. Issued mainly by medical assistance programs or health and accident insurance plans.	\$600 or more		
		Payments for services performed for a trade or business by people not treated as its employees. Examples: fees to subcontractors or directors and golden parachute payments.	\$600 or more		
		Fish purchases paid in cash for resale.	\$600 or more		
		Crop insurance proceeds.	\$600 or more		
		Substitute dividends and tax-exempt interest payments reportable by brokers.	\$10 or more		
		Gross proceeds paid to attorneys.	\$600 or more		
				February 15**	
				February 15**	
1099-OID	Original Issue Discount	Original issue discount.	\$10 or more	February 28*	January 31**
1099-PATR	Taxable Distributions Received From Cooperatives	Distributions from cooperatives passed through to their patrons including any domestic production activities deduction and certain pass-through credits.	\$10 or more	February 28*	January 31

*The due date is March 31 if filed electronically. **The due date is March 15 for reporting by trustees and middlemen of WHFITs.

Guide to Information Returns (Continued)

Form	Title	What to Report	Amounts to Report	Due Date	
				To IRS	To Recipient (unless indicated otherwise)
1099-Q	Payments From Qualified Education Programs (Under Sections 529 and 530)	Earnings from qualified tuition programs and Coverdell ESAs.	All amounts	February 28*	January 31
1099-R	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.	Distributions from retirement or profit-sharing plans, any IRA, insurance contracts, and IRA recharacterizations.	\$10 or more	February 28*	January 31
1099-S	Proceeds From Real Estate Transactions	Gross proceeds from the sale or exchange of real estate and certain royalty payments.	Generally, \$600 or more	February 28*	February 15
1099-SA	Distributions From an HSA, Archer MSA, or Medicare Advantage MSA	Distributions from an HSA, Archer MSA, or Medicare Advantage MSA.	All amounts	February 28*	January 31
3921	Exercise of an Incentive Stock Option Under Section 422(b)	Transfer of an employer's stock to an employee pursuant to the exercise of an incentive stock option under section 422(b).	All amounts	February 28*	January 31
3922	Transfer of Stock Acquired Through an Employee Stock Purchase Plan Under Section 423(c)	Transfer(s) of stock acquired through an employee stock purchase plan under section 423(c)	All amounts	February 28*	January 31
5498	IRA Contribution Information	Contributions (including rollover contributions) to any individual retirement arrangement (IRA) including a SEP, SIMPLE, and Roth IRA; Roth conversions; IRA recharacterizations; and the fair market value (FMV) of the account.	All amounts	May 31	(To Participant) For FMV/RMD Jan 31; For contributions, May 31
5498-ESA	Coverdell ESA Contribution Information	Contributions (including rollover contributions) to a Coverdell ESA.	All amounts	May 31	April 30
5498-SA	HSA, Archer MSA, or Medicare Advantage MSA Information	Contributions to an HSA (including transfers and rollovers) or Archer MSA and the FMV of an HSA, Archer MSA, or Medicare Advantage MSA.	All amounts	May 31	(To Participant) May 31
W-2G	Certain Gambling Winnings	Gambling winnings from horse racing, dog racing, jai alai, lotteries, keno, bingo, slot machines, sweepstakes, wagering pools, poker tournaments, etc.	Generally, \$600 or more; \$1,200 or more from bingo or slot machines; \$1,500 or more from keno	February 28*	January 31
W-2	Wage and Tax Statement	Wages, tips, other compensation; social security, Medicare, withheld income taxes; and advance earned income credit (EIC) payments. Include bonuses, vacation allowances, severance pay, certain moving expense payments, some kinds of travel allowances, and third-party payments of sick pay.	See separate instructions	To SSA	To Recipient
				Last day of February*	January 31

*The due date is March 31 if filed electronically.