

Government Update for November 2009

Federal

1099-R Distribution Code Revisions

The Internal Revenue Service (IRS) has issued instructions for completing Form 1099-R (Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.) for tax year 2009. The Guide to Distribution Codes now includes new distribution code U (Dividends distributed from an ESOP under section 404(k)). This new distribution code can be a distribution code one or used as a second distribution code with distribution code B.

Distribution code B (Designated Roth account distribution) can now be used in conjunction with the following distribution codes:

- 1 (Early distribution, no known exception)
 - 2 (Early distribution, exception applies)
 - 4 (Death)
 - 8 (Excess contributions plus earnings/excess deferrals (and/or earnings) taxable in 2009)
 - D (Excess contributions plus earnings/excess deferrals taxable in 2007)
 - G (Direct rollover and rollover contribution)
 - L (Loans treated as deemed distributions)
 - P (Excess contributions plus earnings/excess deferrals taxable in 2008)
 - U (Dividends distributed from an ESOP under section 404(k))
- Note: This distribution is not eligible for rollover.

The instructions state that a separate Form 1099-R is required when reporting a distribution from an Employee Stock Ownership Plan (ESOP). This means that distribution code U must also be reported on a separate Form 1099-R.

Within the instructions there is still a caution that a separate Form 1099-R must be used to report a distribution from a designated Roth account.

State

California Withholding Changes

Per the California EDD (Employment Development Department) webpage of 10/01/09:

“As a result of the passage of Assembly Bill x4_17, as signed by the governor 07/28/09, the California Withholding Schedules for 2009 have been replaced effective November 1, 2009, to accelerate withholding. The modified schedules are available online. For additional information about supplemental wages, refer to the California Employer’s Guide (DE 44), or the Information Sheet: Personal Income Tax Withholding — Supplemental Wage Payments, Moving Expense Reimbursement — WARN Act Payments (DE 231PS).”

The schedules have been updated to accurately reflect the withholding amounts that should be withheld in each bracket of income at the time of the employee’s payroll. The Exemption amount has changed from \$1.90/weekly to \$2.09/weekly. Supplemental/Bonus percent rate increased from .06000 to .06600 and Bonus percent rate increased from .09300 to .10230.

Connecticut issues guidance on catch-up withholding

Recently enacted legislation may require catch-up withholding for certain individuals. Effective for taxable year 2009, the highest marginal tax rate has increased to 6.5% for the following individuals:

- Individuals whose Connecticut filing status is "Jointly" or "Qualifying Widow(er)" and whose Connecticut taxable income is more than \$1 million.
- Individuals whose Connecticut filing status is "Head of Household" and whose Connecticut taxable income is more than \$800,000
- Individuals whose Connecticut filing status is "Single" or "Separately" and whose Connecticut taxable income is more than \$500,000.

Employers are required to adjust the withholding amount for employees within these tax brackets to reflect the 6.5% rate. To determine the catch-up withholding for employees that are subject to the new rate, calculate the tax due on the annualized taxable income, subtract the withholding tax already withheld, and divide the difference by the number of pay periods remaining in 2009. To calculate the additional withholding tax for taxable year 2009, use the withholding calculation rules at

<http://www.ct.gov/drs/lib/drs/forms/2009withholding/2009calculationrules.pdf>.

(Connecticut Department of Revenue Services, www.ct.gov/drs, October 2, 2009.)

Massachusetts State Unemployment E-filing

The Commonwealth of Massachusetts, Division of Unemployment Assistance (DUA) had released a document entitled Employment and Wage Submission Guidelines and Information. It documented a major program called the Quality Unemployment System

Transformation Program (QUEST) which is being initiated to modernize their information systems and streamline the way the DUA conducts the Unemployment Insurance business with employers and third party administrators. This program is on target to be implemented by the state in December of 2009.

As a result of this new program, beginning with fourth quarter 2009 filings, DUA is requiring all employers with Massachusetts employees to do quarterly reporting electronically via the web. The new quarterly employee detail records now include Quarterly Hours Worked and a Unit number/Division Location (plant code/location code).

To comply with this new reporting, beginning with the first payroll of fourth quarter 2009, hours worked needs to be accumulated for all Massachusetts employees. Also beginning with the first payroll of fourth quarter 2009, the employee detail records are to include an Owner/Officer indicator.

Massachusetts will require that all Massachusetts employers activate their QUEST account in December. All employers registered with the State Unemployment Insurance program will be mailed log in information along with a Quest Activation Password. To see a demo of the activation process, visit the state web site at www.mass.gov/dua/quest and click on Quest Activation Demo on the right.

New Jersey to allow deductions for health club fees, child care services

Health club membership fees and child care services are added to the list of allowed payroll deductions under a rule amendment adopted recently by the New Jersey Department of Labor and Workforce Development, Division of Wage and Hour Compliance. Such payroll deductions must be authorized either in writing by employees or under a collective bargaining agreement and must be approved by the employer (*New Jersey Administrative Code 12:55-2.1, amended effective September 21, 2009, 41 N.J.R. 3459(a).*)

South Dakota State Unemployment Surcharge

The South Dakota Unemployment Insurance Trust Fund has been severely impacted by the recession. South Dakota Legislation (South Dakota Codified Laws 61-5-23) automatically accesses a surcharge to employers when the State Unemployment Insurance Trust Fund falls below certain levels. The surcharge rate depends on the actual Trust Fund balance at the end of any quarter. Because the Trust Fund balance was \$2.8 million on September 30, 2009, a 1.50 percent surcharge has been triggered on taxable wages paid from October 1 through December 31, 2009 on the 2009 taxable wage base limit of \$9,500. This 1.50 percent is in addition to the regular unemployment contribution owed by the employer. The surcharge payment is deposited in the State

Trust Fund, but does not get credited (not FUTA certifiable) to employers unemployment account balance. The surcharge is projected to be in effect through June 30, 2010.

Local

Jefferson County, Alabama

The Alabama State Legislature recently passed, and the governor has signed, Act Number 2009-811 with an effective date of January 1, 2010. This act permits Jefferson County to levy an occupational tax on individuals working in the county, including those that pay a privilege or license tax and were previously exempt. In addition, the withholding rate for this tax will be reduced to 0.4500 from 0.5000. The tax will then be phased out over a five year period at a rate of 20% per year.

Employees that are currently exempt from the Jefferson County Occupational Tax (such as physicians, lawyers, architects, private detectives and/or fortune tellers) effective January 1, 2010 they will become subject to this tax.

Indiana County Rates Changes

The Department of Revenue for the State of Indiana has released Departmental Notice #1 (R10/10-09) - How to Compute Withholding For State and County Income Tax. This publication included the following tax rates for the indicated counties effective October 1, 2009:

Bartholomew Resident to increase from 1.00% to 1.25%
Bartholomew Non-Resident to increase from 0.25% to 0.50%
Carroll Resident to decrease from 1.55% to 1.45%
Grant Resident to increase from 1.25% to 2.25%
Grant Non-Resident to increase from 0.50% to 0.75%
Hancock Resident to increase from 1.15% to 1.20%
Hancock Non-Resident to increase from 0.40% to 0.45%
Lawrence Resident to increase from 1.00% to 1.75%
Monroe Resident to increase from 1.04% to 1.05%
Monroe Non-Resident to increase from 0.26% to 0.2625%
Posey Resident to increase from 0.40% to 1.00%
Posey Non-Resident to increase from 0.10% to 0.625%
Wabash Resident to decrease from 2.90% to 2.82%
Parke Resident to decrease from 2.55% to 2.30%
St. Joseph Resident to increase from 0.80% to 1.75%
St. Joseph Non-Resident to increase from 0.35% to 0.7375%

There are no changes to the personal exemption amount (\$19.23/weekly or \$1,000 per calendar year) or the dependent exemption amount (\$28.85 or \$1,500 per calendar year).

Silverton, Ohio Frequency Change

The City of Silverton has amended their Tax Ordinance, Section 36.05, Collection at Source to include a change in the filing/reporting frequency from quarterly to monthly, effective October 1, 2009. Employers within or doing business within the City of Silverton are required to submit their income tax withholding payments on or before the 15th of the month following the withholding month.