

Tax Update for State and Local Governments

Fringe Benefit and Tax Reporting Overview



Presented by:
Ashley M. Summers, CPA
Tax Manager

Certified Public Accountants & Consultants

Sales & Use Tax Reminder



- Retail Sales and Use tax exemptions can now be used to make exempt purchases of food and meals including catering services for state and local governmental entities
- New use and consumption test must be met to be an exempt purchase
- Effective for purchases made after April 22, 2016

Tax Reporting



- What is compensation and how does it need to be reported?
 - Employees
 - Independent Contractors
- Employees – Compensation is reported on Form W-2

Independent Contractors

- How do you determine an employee vs. an independent contractor?
 - Facts and circumstances based
 - General rule
 - If the payer has the right to only control the result of the work but not what will be done and how it will be done then it is an independent contractor situation
 - If the payer controls all aspects of the work, the results and how you will get to the results, then it is an employer-employee situation

Independent Contractors

- Form W-9 (or substitute), Request for Taxpayer Identification Number and Verification, should be obtained from all independent contractors providing services
 - Name, address and taxpayer identification number
- Form W-9 should be obtained before any payments are made

Independent Contractors

- If the taxpayer is unable to provide a tax identification number then back-up withholding at 28% is required
- What payments to independent contractors are required to be reported on Form 1099-MISC?
- Are there any exceptions to reporting payments on Form 1099-MISC?

Payments Reported on Form 1099-MISC



- Payments in excess of \$600
- Types of payments reported on Form 1099-MISC
 - Services
 - Awards
 - Rents
 - Medical/healthcare payments
 - Other income

Form 1099-MISC Payments



- Examples of Nonemployee Compensation (Box 7)
 - Accounting & Attorney fees
 - Advertising
 - Landscaping/Maintenance
 - Consultant fees
 - Game officials and referees

Common exceptions to reporting payments on Form 1099-MISC



- Generally, payments made to corporations
- Payments for merchandise
- Payments to tax-exempt entities
- Payments made with a credit card
 - Reported on 1099-K by the credit card company

Example of Form 1099-MISC



9595 VOID CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1 Rents		OMB No. 1545-0115 2017 Form 1099-MISC		Miscellaneous Income	
		\$					
PAYER'S federal identification number		2 Royalties		4 Federal income tax withheld			Copy A For Internal Revenue Service Center
		\$					
RECIPIENT'S identification number		3 Other income		5 Fishing boat proceeds		File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2017 General Instructions for Certain Information Returns.	
		\$		\$			
RECIPIENT'S name		7 Nonemployee compensation		8 Substitute payments in lieu of dividends or interest			
Street address (including apt. no.)		\$		\$			
City or town, state or province, country, and ZIP or foreign postal code		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>		10 Crop insurance proceeds			
Account number (see instructions)		11		12			
FATCA filing requirement <input type="checkbox"/>		2nd TIN not <input type="checkbox"/>		13 Excess golden parachute payments			
\$		\$		\$			
14 Gross proceeds paid to an attorney		15a Section 409A deferrals		15b Section 409A income			
\$		\$		\$			
16 State tax withheld		17 State/Payer's state no.		18 State income			
\$		\$		\$			

Form 1099-MISC Cat. No. 14425J www.irs.gov/form1099misc Department of the Treasury - Internal Revenue Service
Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

Important 1099 Dates

- January 31, 2018 if reporting Nonemployee Compensation in Box 7
- February 28, 2018 for all other payments (if filed on paper)
- April 2, 2018 for all other payments (if filed electronically)

Fringe Benefits Reporting

The Basics



- What are fringe benefits?
 - Compensation paid to employees in addition to standard wages
- How can fringe benefits be received?
 - Cash
 - Cash equivalent (gift card)
 - Property
 - Services

Fringe Benefits – Tax Treatment



- Taxable – Included in employees gross wages
 - Subject to income tax withholding, SS and Medicare
- Non-taxable – Specifically excluded from wages by the tax code
- Partially taxable
- Tax-Deferred

How are fringe benefits valued?



- Fair market value
 - The price a willing buyer would pay
- If an employee pays for a portion of a fringe benefit – the taxable amount is reduced by the amount paid by the employee.

Job Related Allowances and Reimbursements



- Nontaxable (excludable) under an accountable plan
 - Business purpose for the expense
 - Employee accounts for the expense appropriately and timely
 - Excess reimbursements are repaid timely
- Taxable under a non-accountable plan
 - Does not meet the qualifications of an accountable plan

Working Condition Fringe Benefits



- Nontaxable (excludable) if the employee would otherwise be allowed to deduct the expense as a business expense on their individual income tax return
- Must be substantiated

De Minimis Fringe Benefits

- Property or service provided to an employee that is so minimal in value and frequency that accounting for the benefit would be impracticable.
- Is cash ever considered a de minimis fringe benefit?
- Is a gift card ever considered a de minimis fringe benefit?

Examples of De Minimis Fringe Benefits



- Employer provided cell phone
- Small value staff birthday/holiday gifts (excluding cash and cash equivalents)
- Coffee, drinks, group meals

Awards and Prizes



- Nontaxable in three specific circumstances
 - Non-cash employee achievement awards
 - For length of employment or safety
 - Awarded as part of a meaningful presentation
 - Not disguised as wages
 - Qualified plan award
 - Under a written plan
 - Does not discriminate towards highly compensated employees
 - Average cost of awards is under \$400 for the year

Nontaxable Awards and Prizes



- Prizes or awards donated to charity
- De minimis awards and prizes
 - What amount is considered de minimis?

Awards and Prizes

- How do you treat awards and prizes provided by an outside party?
 - Taxable in the same way as if provided by the employer
 - Employer is responsible for payroll taxes if the funds are provided to the employer to select the award recipient and distribute the funds
 - If the outside party selects the award winner and distributes the funds – the outside party will provide a 1099-MISC to the recipient (if required)

Volunteers

- Must determine in what capacity the volunteer serves
 - Independent contractor
 - Employee
- If the volunteer is determined to work in the capacity of an employee than payroll tax requirements apply to the extent payments are made to the volunteer

Volunteers

- Same rules for excludable fringe benefits apply to volunteers
- Volunteer Firefighters
 - Generally employees
 - Must consider what payments are made to the volunteer to determine taxability (payments made under an accountable plan vs. a non-accountable plan)

Board and Commission Members



- Generally considered public officials, and therefore considered employees, however they may be considered independent contractors (based on local statute)
- If an independent contractor – compensation is reported on Form 1099-MISC
- If an employee – compensation is reported on Form W-2

References

- IRS Office of Federal, State and Local Governments
 - Fringe Benefit Guide – Publication 5137
 - Quick Reference Guide for Public Employers – Publication 5138
 - Federal State Reference Guide – Publication 963

Questions?



Contact



Ashley M. Summers
Tax Manager

PBMares, LLP
558 South Main Street
Harrisonburg, VA 22801
Phone: (540) 434-5975, ext. 2209
asummers@pbmares.com