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Client Information Bulletin

December 2015

Reaping Rewards of a Business Plan *Start 2016 in the right direction*

How can you get your business off to a good start in 2016? There are no guarantees, but it certainly helps to plan ahead. Specifically, you should draw up a business plan before year-end to put into motion on January 1. If you have developed a plan in prior years, you can refer to it when developing a new one, but you do not necessarily have to be wedded to what you have done in the past.

Essentially, a business plan is a blueprint for running the company, but a comprehensive plan can do much more than that. Here are several typical benefits you might realize from a business plan:

♦ **The plan can provide a needed sense of direction.** It will show you where you are now, where you are going and how to get there. Of course, the plan does not have to be set in stone. For instance, new developments may require some slight deviations from your original plan. However, your business decisions probably will be more solid if they are made within the framework of the original plan. If something is way off base, it should raise suspicion.

♦ **It forces management to be proactive instead of reactive.** Frequently, business managers in small companies tend to put out the fires as problems arise. Committing a business plan to writing requires a great

deal of discipline, but going through the process is worth it. For example, it's easier to find the flaws in a hastily conceived plan once you have seen it in black and white.

♦ **Advance planning usually leads to better communication.** For one thing, the process will force you to crystallize your vision of the company. For another, it encourages input from the personnel who are involved with the planning. This kind of dialogue may be particularly vital, especially in small firms. **Reason:** The employees have the opportunity for some valuable give-and-take with management.

♦ **A business plan can give you instant credibility in your industry or profession.** It can be especially impressive to the creditors and bank lending officers you deal with. And it may satisfy a psychological need for you and your company to be taken seriously.

♦ **The plan may be used to help raise capital for the company.** By focusing on accounts receivable in your business plan, you may be able to free up additional funds. Furthermore, it is likely that a lender will require you to present a business plan plus cash projections to obtain a loan.

♦ **What should you put into a business plan?** Generally, the document will include a statement of objectives, strengths and weaknesses,

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position in the marketplace, future direction, critical issues and so forth. However, there is no magic formula. The important thing is to touch all the bases essential to your particular line of work.

Finally, use your business plan as a guideline, but do not treat it as a bible. Feel free to modify the plan during the course of the year as needed. Your business advisers can provide assistance with both the development of the plan and its modifications.

Happy Holidays

Our firm would like to wish you and your family a happy holiday season, and a healthy and prosperous New Year.

Car Donations: Tax Rules of the Road

Special limits on charitable deductions

There are many ways you can provide benefits to your favorite charity other than simply donating cash (although that is certainly appreciated, too). For instance, you can donate property such as a car or other vehicle that may be used to further the charity's tax-exempt function. Of course, you are entitled to a charitable deduction for the gift.

However, if you are not careful, you could wind up with a deduction for an amount less than the car's fair market value (FMV) ... or even no deduction at all. The deduction is based on a tax law change that went into effect after 2004.

Background: Previously, the rules in this area were more favorable to taxpayers. All you had to do was arrange for the charity to receive the car, drop it off and then claim a deduction based on FMV. An estimated value for each make and model is listed in Kelley Blue Book (KBB) and similar car-buying guides.

But the IRS noticed that taxpayers were being overly aggressive in claiming charitable deductions for vehicles. Typically, they would inflate the FMV without any sub-

stantiation as to the vehicle's condition or worth. This forced Congress to tighten up the rules.

Under current law, if you use a buying guide such as KBB to set the vehicle's FMV, the deduction may be reduced if the charity then sells the vehicle, a frequent occurrence. For example, if you state that the FMV of a car is \$5,000 when you donate it and the charity subsequently sells it for \$3,500, your deduction is limited to \$3,500. **Another tax law change:** If you claim a deduction of \$500 or less for a car, the deduction is equal to the lesser of \$500 or the FMV.

The charity must provide you with written substantiation of the deduction value within 30 days of your contribution or, if it sells the vehicle, within 30 days of the sale. Save this documentation as proof in case the IRS ever challenges the deduction amount. If you have not heard from the charity within 30 days of a vehicle donation, contact the organization immediately to obtain the written statement.

Generally, deductions for vehicles are lower than they were prior to these tax law changes. **One consolation:** If the charity materially improves the vehicle for its own use—for instance, it repairs a bent fender or installs a new feature such as a rear-view camera—you can still deduct the vehicle's FMV. Depending on your situation, you might search for a charitable organization willing to fix up the vehicle for its own use.

Finally, other rules may apply to charitable deductions, such as a reduction for certain high-income taxpayers. Consult your tax adviser before you drop off the keys.



Give Us A Call!

Do you have any questions or comments about **Client Information Bulletin** or your individual situation? Please do not hesitate to contact our office. We would be glad to serve you in any way we can.

Five Ways to Avoid 100% Penalty

Corporate officers may be personally liable

Frequently, someone in your company—it may be the president, vice president, treasurer or some other officer—will have assumed the duty of collecting and depositing federal payroll taxes. That person could be in for a rude awakening one day.

According to an onerous provision in the federal tax law, any person who willfully fails to deposit the required income tax withholding or employment taxes can be held personally liable for any unpaid taxes. This is one time when the corporate shield cannot protect an individual.

How much is this penalty? The person found to be responsible may have to pay an amount equal to the total tax due—in other words, 100% of the liability. That is why tax practitioners have referred to this rule in the past as the “100% penalty” (now often called the trust fund recovery penalty).

What constitutes a “willful” failure for this purpose? It doesn’t take much to be held responsible if you rely on past cases and rulings. The failure on the part of the responsible person does not necessarily have to be intentional.

The tax landscape is littered with cases where the 100% penalty was levied against unsuspecting parties. Recently, liability was upheld for the higher-ups of an automobile parts manufacturer after the controller did not make the necessary payroll deposits. The officers, who were previ-



ously determined to be responsible parties, did not have personal knowledge of the delinquency. Nevertheless, the district court in Michigan said they recklessly disregarded the risks by failing to personally verify payments and relying instead on the controller’s assertion, even though they knew he was unreliable (*Byrne v. United States*, DC-MI, 116 AFTR2d 2015-5502).

Is there anything you can do to protect yourself against the 100% penalty? There are no guarantees, but here are five practical suggestions.

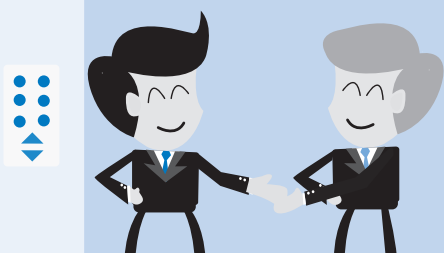
1. Mark each payroll due date on your desk calendar, appointment book or other ledger that you refer to frequently. Or you might use an electronic device such as a smartphone for this purpose. This will keep you aware of approaching deadlines. Have your assistant do the same thing.
2. If you delegate the responsibility, keep abreast of the collection and payment process. For instance, you can have the designated person send you a note confirming that the taxes have been paid.
3. It may be advantageous to assign the duty to two or more assistants. You cannot be too careful in this area.
4. Whether you decide to delegate the responsibility or not, designate a substitute in case of sickness, vacation or unforeseen circumstance.
5. Consider outsourcing the payroll tax responsibilities to an outside professional.

Final words: Provide details about the responsibilities for collecting and depositing payroll taxes in the corporate minutes. These simple precautions may end up saving you thousands of dollars in the long run.

Going Up? The Elevator Speech

If a business associate or client wants a reason to follow your advice, he or she may ask for your “elevator speech.” In other words, you should be able to outline the main points of a proposition in about the length of time it takes to ride an elevator from the lobby to the top floor of your business building.

An elevator speech may be used to promote a specific project, your overall operation or even yourself (i.e., a verbal résumé). Be prepared to deliver one at a moment’s notice.



Introduction to the New Credit Cards

Changes for businesses in the works

Credit card issuers are continuing to roll out new cards designed to deter identity (ID) theft. That is good news for consumers who might otherwise be victimized by thieves stealing their personal information. However, the responsibility for losses resulting from ID theft has also shifted, resulting in changes for business entities of all shapes and sizes.

The new types of cards are called EMVs, short for Europay, MasterCard and Visa, three of the major credit card issuers. EMVs use new technology based on a computer chip, normally located in a small square on the front of the credit card. With this square, which replaces the long-used magnetic strip on the back of cards, a unique transaction code is created whenever the card is used. If an ID thief tries to use the information gained from your last credit card transaction, access will be denied.

These high-tech cards have been used successfully around the globe, notably in Europe and Canada, and already represent the majority of credit cards being used worldwide. In the United States, the first wave of cards contained both the square and the magnetic strip. Eventually, cards with magnetic strips will be phased out.



Although EMVs should not be viewed as a panacea, this is a positive step in improving ID theft protection. But consumers are not the only ones affected by the change. Naturally, businesses must make the necessary accommodations to accept the new cards. What's more, the changes do not stop there.

Effective October 1, 2015, liability for a loss from credit card fraud has shifted from the credit card issuer to a noncompliant merchant at the point of sale. For instance, if your business does not comply with the new technology and sells goods to an ID thief, you are liable for payments erroneously charged to the consumer. This is a significant change.

Typically, a business will have to accommodate EMVs by installing new terminals at their purchase points. Many have already made the switch. For instance, if you run a restaurant or a hardware store with several cash registers, you will need a new terminal for each cash register. This is a relatively small cost to ensure greater protection against ID theft and liability to your company.

There is no legal requirement to make immediate changes to accommodate EMVs, but it is likely in your best interest to do so. This is an evolving situation, so stay on the alert for future developments.

Facts and Figures

Timely points of particular interest

➔**Manufacturing Deductions**—Under Section 199 of the tax code, a business may claim a “manufacturing deduction” equal to 9% of its qualified domestic production income, subject to a limit of 50% of W-2 wages paid out during the year. Now the IRS has issued new regulations clarifying the rules on the W-2 limit in a short tax year. See your professional tax adviser for details.

➔**Health Insurance**—Remember that the employer mandate to provide health insurance for full-time employees (FTEs) under the Affordable Care Act (ACA) takes effect for midsize firms on January 1, 2016. This ACA provision was postponed from its January 1, 2015, deadline. For this purpose, a “midsize firm” is one with 50 to 99 FTEs. Larger employers already must comply with this rule.