

**NEW DEVELOPMENTS, YEAR END UPDATE
AND 1040 CONSIDERATIONS
JANUARY 2015**

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I. TAX SHELTER ANNUITIES – LIMITATIONS

	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
Exclusion for elective deferrals [IRC §402(g)(1)]	\$16,500	\$17,000	\$17,500	\$17,500	\$18,000
Limitation on total elective and non-elective contributions [IRC §415 (c)(1)(A)]	\$49,000	\$50,000	\$51,000	\$52,000	\$53,000
Limitation on deferrals under government [IRC §457(b)(2), IRC §457(c)(1)]	\$16,500	\$17,000	\$17,500	\$17,500	\$18,000
Age 50 catch-up contributions limit (non-SIMPLE plans)[IRC §414(v)(2)(B)(i)]	\$5,500	\$5,500	\$5,500	\$5,500	\$6,000
15 years of service catch-up limit	\$3,000	\$3,000	\$3,000	\$3,000	\$3,000

Refer to Appendix B for “403(B) Salary Reduction Contribution Eligibility Notification” and Appendix C and Appendix D for Certification Work Sheets to assist in calculating limitations for tax shelter annuities.

II. RESERVES AVAILABLE TO SCHOOL DISTRICTS AND LOCAL GOVERNMENTS

AS PERMITTED BY GENERAL MUNICIPAL LAW:

Capital Reserve

Capital reserves (GML §6-c, 6-g) available to counties, cities, villages, towns, fire districts, and town or county sewer and water improvement districts are used to finance all or part of the cost of construction, reconstruction or acquisition of a *specific* or *type* of capital improvement or the acquisition of a *specific* or a *type* item of equipment. Creation and use of a capital reserve is as follows:

Specific Capital Reserves

The creation of a specific capital reserve requires Board resolution, which must state the estimated maximum cost of the item of equipment or improvement. The establishment of a specific capital reserve is subject to permissive referendum if the authorization to issue indebtedness for the same improvement or equipment is subject to either a permissive or mandatory referendum, except for fire districts. For fire districts, the qualified electors of the fire district must vote and approve the establishment of the specific capital reserve. Expenditures from a specific capital reserve must be authorized by the Board.

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Type Capital Reserves

The creation of a type of capital reserve should be authorized by the Board by formal resolution however, there is no requirement to state an estimated maximum cost of the equipment or improvement in the resolution. Except for fire districts, a referendum is not required when establishing a type capital reserve. For fire districts, the qualified electors of the fire district must vote and approve the establishment of the specific capital reserve. For certain municipalities, expenditures from a type of capital reserve are subject to permissive referendum. If the authorization for the purchase of such improvement or equipment is subject to permissive or mandatory referendum, the expenditure for the same purpose is generally subject to permissive referendum.

The capital reserves are funded by budgetary appropriations and revenues not required by law to be paid into any other fund or account. After all outstanding claims have been satisfied, the Board may appropriate all or part of any unexpended balances remaining in a specific or type of capital reserve to another capital reserve without referendum. If a specific capital reserve was established and the improvement or item of equipment was not acquired or completed, the transfer of funds is subject to permissive referendum if the authorization for the creation of the reserve was subject to permissive referendum. Additionally, while subject to a public hearing with fifteen days notice, the unexpended balance may be transferred to a retirement contribution reserve.

Employee Benefit Accrued Liability Reserve

Reserve for employee benefit accrued liability (GML §6-p) is used to reserve funds for the payment of accrued employee benefits due an employee upon termination of the employee's service (long-term compensated absences liability). This reserve may be established by a majority vote of the Board, and is funded by budgetary appropriations, with funds from other reserves as authorized under Article 2 of the General Municipal Law, by resolution subject to permissive referendum and such funds that may be legally appropriated. General Municipal Law (GML) allows local governments and school districts to establish an Employee Benefit Accrued Liability Reserve (EBALR) for the purpose of paying only costs associated with compensated leave paid directly to or on behalf of employees upon separation from employment. Expenditures can be made without voter approval. The reserve is accounted for separate and apart from all other funds of the school district and local government. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

However, unlike the liability calculation for compensated absences under GASB No. 16, school districts and local governments cannot legally accumulate funds in an EBALR for salary-related costs, such as FICA and Medicare taxes. Also, Other Post Employment Benefit (OPEB) costs, employer retirement contributions and/or retirement incentives for employees cannot be funded by EBALR. Presently, there is no other reserve fund authorized by the GML, or any other law for these salary-related costs. Instead, the school districts and local governments must appropriate funds in each year's budget to pay for salary-related costs associated with separation from employment.

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Insurance Reserve

The insurance reserve (GML §6-n) is used to pay liability, casualty and other types of losses. The reserve may also be utilized to pay for expert or professional services in connection with the investigation, adjustment, or settlement of claims, actions or judgments. It does not include accident, health, life or other specified losses. The reserve may be established by Board action and is funded by budgetary appropriations and such other funds as may be legally appropriated. The reserve is accounted for separate and apart from all other funds of the school district. Expenditures can be made without voter approval. The annual contribution to the reserve may not exceed the greater of \$33,000 or 5 percent of the annual budget. If the Board decides it no longer needs an insurance reserve fund, it may transfer the monies remaining to any other reserve fund as authorized under Article 2 of the General Municipal Law or by Education Law Section 3651, subject to any liabilities incurred or accrued against the fund. Board members commit a misdemeanor if they authorize a withdrawal from or expend money withdrawn from the insurance reserve fund for any purpose not authorized by law. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

Mandatory Reserve Fund

Mandatory reserve fund (GML §6-1) is required to be established to restrict the use of the proceeds of the cash sale of property or capital improvements and state and federal aid received for capital improvements, for the purpose of retiring the outstanding obligations that were issued to finance the improvements. The creation of the reserve is mandatory and voter approval is not required to expend monies from the reserve. Expenditures may only be made to retire the obligations issued to finance the capital improvement sold or for which federal or state aid is received. Board members commit a misdemeanor if they authorize a withdrawal from or expend money withdrawn from the reserve fund for any purpose not authorized by law. Excess funds that may remain in the reserve after all of the outstanding obligations have been retired may be used for any lawful purpose. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

Repair Reserve

Repair reserve (GML §6-d) is used to pay the cost of repairs of capital improvements or equipment, which repairs are of a type not recurring annually or shorter intervals. The Board without voter approval may establish a repair reserve fund by a majority vote of its members. The reserve is accounted for separate and apart from all other funds of the school district and local government. Voter approval is required to fund this reserve (Opinion of the New York State Comptroller 81-401). Expenditures from this reserve may be made only after a public hearing has been held and at least five days has elapsed between the publication of the notice of hearing and the date specified for the hearing, except in emergency situations. If no hearing is held, the Board must pass a resolution that is approved by at least a two-thirds vote. Additionally, at least one half of the amount expended must be repaid to the reserve fund in the next fiscal year and the balance be repaid by the end of the following fiscal year. Board members commit a misdemeanor if they authorize a withdrawal from or expend money withdrawn from the repair reserve fund for any purpose not authorized by law. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

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Retirement Contribution Reserve

Retirement contribution reserve (GML §6-r) is used for the purpose of financing retirement contributions made to the New York State and Local Employees' Retirement System. The reserve may be established by Board action and is funded by budgetary appropriation, revenues that are not required to be paid into any other fund or account, transfers from other reserve funds within legal requirements, and such other funds as may be legally appropriated. Expenditures from this reserve may only be made after the Board has passed a resolution authorizing the financing of retirement contributions. The reserve must be accounted for separate and apart from all other funds, and a detailed report of the operation and condition of the fund must be provided to the Board. If the Board decides it no longer needs a retirement contribution reserve fund, it may terminate the reserve fund by formal resolution and transfer the monies remaining to any other reserve fund as authorized under General Municipal Law or by Education Law Section 3651. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

Unemployment Insurance Payment Reserve

Unemployment insurance payment reserve (GML §6-m) is used to pay the cost of reimbursement to the State Unemployment Insurance Fund for payments made to claimants where the employer has elected to use the benefit reimbursement method (instead of the contribution method). The reserve may be established by Board action and is funded by budgetary appropriations and such other funds as may be legally appropriated. Expenditures can be made without voter approval. Expenditures may be made only as required by law to pay into the Unemployment Insurance Fund in an amount that is equivalent to the amount of benefits paid to claimants. Within sixty days after the end of any fiscal year, excess amounts may either be transferred to another reserve or the excess applied to the appropriations of the next succeeding fiscal year's budget. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

Workers' Compensation Reserve

Workers' compensation reserve (GML §6-j) is used to pay for compensation benefits and other expenses authorized by Article 2 of the Workers' Compensation Law, and for payment of expenses of administering this self-insurance program. The reserve may be established by Board action, and is funded by budgetary appropriations and such other funds as may be legally appropriated. The reserve is accounted for separate and apart from all other funds of the school district and local government. Expenditures can be made without voter approval. Within sixty days after the end of any fiscal year, excess amounts may either be transferred to another reserve or the excess applied to the appropriations of the next succeeding fiscal year's budget. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

AS PERMITTED BY EDUCATIONAL LAW:

Capital Reserve

Capital reserves (Education Law §3651) available to school districts are used to pay the cost of any object or purpose for which bonds may be issued. The creation of a capital reserve fund requires authorization by a majority of the voters establishing the purpose of the reserve; the ultimate amount, its probable term and the source of the funds. Expenditures may be made from the reserve only for a

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specific purpose further authorized by the voters. The form for the required legal notice for the vote on establishing and funding the reserve and the form of the proposition to be placed on the ballot are set forth in §3651 of the Education Law. If the voters determine that the original purpose for which the reserve was established is no longer needed, the reserve may be liquidated, the proceeds first be applied to any outstanding indebtedness and the remaining balance, if any, be applied to reduce the annual tax levy subject to certain limitations set in the law. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

Property Loss/Liability Reserve

The property loss/liability reserve (Education Law §1709(8-c)) is used to pay for property loss and liability claims incurred. The reserve may be established by Board action and is funded by budgetary appropriations and such other funds as may be legally appropriated. Separate reserve funds must be established for property loss and for liability claims. The separate identity of each fund must be maintained, whether its assets consist of cash or investments, or both. Expenditures can be made without voter approval. For school districts, each reserve may not exceed the greater of 3% of the annual budget or \$15,000. For BOCES, the total amount of reserves cannot exceed 3% of the annual budget. Once the reserve is established, the reserve fund may not be reduced (other than by payments for losses for which the reserve was established) below the estimated amount necessary to cover unsettled claims or suits. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

Reserve for Inventory

Reserve for inventory is used to restrict that portion of fund balance which is not available for appropriation. This reserve is classified as nonspendable fund balance as per GASB Statement No. 54.

Reserve for Tax Reduction

The reserve for tax reduction (Education Law, §1604 & §1709) is for the gradual use of the proceeds of the sale of school district real property where such proceeds are not required to be placed in a mandatory reserve for debt service. Specifically, the District is permitted to retain the proceeds of the sale for a period not to exceed ten years and to use them during that period for tax reduction. The reserve may be established by Board action and expenditures can be made without voter approval. This reserve is classified as unassigned fund balance as per GASB Statement No. 54.

Tax Certiorari Reserve

Chapter 588 of the laws of 1988 amended district real property §3651 of the Education Law to permit the establishment of a reserve fund for tax certiorari and to expend from the fund without voter approval of the qualified voters of the school district. The reserve is funded by budgetary appropriations.

The new Chapter further stipulates that the total of the monies held in the reserve fund shall not exceed the amount which might reasonably be deemed necessary to meet anticipated judgments and claims arising out of tax certiorari proceedings.

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Any monies deposited to such a reserve fund which are not expended for tax certiorari proceedings in the year such monies are deposited must be returned to the general fund on or before the first day of the fourth fiscal year after deposit of these monies. This reserve is classified as restricted fund balance as per GASB Statement No. 54.

Excess Fund Balance – Creation of Reserves

If a District has excess fund balance, the District may utilize excess fund balance to establish reserve funds that do not require prior voter approval. The Commissioner has consistently ruled that districts may utilize these reserves provided that such reserve funds are established and the excess fund balance is appropriated to the reserve prior to the issuance of the tax levy. (*Appeal of Muench, 43 Ed. Dept. Rep. 419, Dec. No. 15,039 [2004]; Real Property Tax Law Section 1318 (1)*).

Allocation of Interest

Interest earned on the monies residing in reserves throughout the year must have interest allocated based on their respective balances.

III. 2015 OPPORTUNITY AGENDA

On January 14, 2015, Governor Andrew M. Cuomo announced his proposed 2015 Opportunity Agenda which represents a \$1.66 billion property tax credit program providing relief to homeowners and renters.

- The purpose of the “2015 Opportunity Agenda” is to help provide tax relief for middle and lower income families with respect to the burden of high property taxes.
- Creates a Real Property Tax Credit for families whose property taxes are more than six percent of their income.
- Taxpayers who have income below \$250,000 would be eligible for the credit, which would result in a credit of up to 50 percent of the total property taxes that is more than six percent of their income. The amount of the credit is based on an income scale.
- Taxpayers with low income brackets and other taxpayers with the highest property taxes may benefit with the most relief under the agenda.

New York State has published the above proposal which be located at:
<https://www.governor.ny.gov/news/2015-opportunity-agenda-restoring-economic-opportunity>

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IV. GUIDANCE FOR SCHOOL DISTRICTS AND LOCAL GOVERNMENTS

A. Accounting for Retainage Percentages

Retainage is an amount of money withheld by a local government from progress payments submitted to a contractor until satisfactory completion of the work. It is also a form of security for proper completion of the work under a construction contract.

New York State General Municipal Law §106-b(1) states that local governments can retain no more than five percent of each progress payment if the contractor is required to submit a performance bond and a labor and material bond as stipulated in the contract. In all other cases, the local government may retain up to ten percent of each progress payment.

Previous guidance stated that claims for construction progress payments included a debit to expenditures for the amount of the claim, a credit to cash for the claim payment and a credit to H605 retained percentages, contracts payable for the amount withheld. Once the work is completed, or when contractors deposit securities instead of retainage, an entry can then be recorded to remove the retainage payable.

In October 2014, the Office of the State Comptroller issued guidance updating the accounting treatment which no longer requires utilizing the account code H605. This code will no longer be available in the Annual Update Document for the fiscal year end December 31, 2014 and the ST-3 Report for fiscal year ending June 30, 2015.

The Office of The State Comptroller references GASB Interpretation No. 6 which states that retainage is not a liability until it becomes due and payable. As a result, the only time this liability would be on the financial statements, is if the contractor is owed the retainage at year end since the payment has not been made. The Office of the State Comptroller (OSC) has published updated guidance on the accounting treatment effective October 2014 which can be located at: <https://osc.state.ny.us/localgov/pubs/releases/files/AccountingRetainages.pdf>

B. Real Property Tax Freeze Certification

As part of the state fiscal year 2014-2015 budget, a local government will need to certify that they are “freeze compliant” with the new real property tax freeze. A local government will be considered “freeze compliant” when their adopted budget does not exceed the tax levy limit under the real property tax levy cap. A local government will need to repeal any laws or resolutions it has adopted for the purposes of overriding the tax levy limit. For school districts, the requirements are the same except they are not obliged to repeal any overrides of the tax levy.

In the second year, (2015-2016 for school districts and fiscal years beginning in 2016 for local governments) the school districts and local governments must comply with the tax cap requirements and have a state approved efficiency plan. The efficiency plan must be submitted to the State Director of the Budget by June 1, 2015 and must demonstrate three year savings and efficiencies of

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at least one percent per year from shared services, cooperation agreements and/or mergers or efficiencies.

Each year, the certifications are collected by the Office of the State Comptroller from taxing jurisdictions that are compliant with the real property tax freeze. The Office of the State Comptroller also collects proposed and adopted budget information from all local governments and school districts, whether or not they are in compliance with the real property tax freeze.

Certifications must be submitted by the 21st day of the new fiscal year. A listing of deadlines for local governments can be found at www.osc.state.ny.us/localgov/realprop/index.htm.

C. Stressed Municipalities and Multi-Year Financial Plans

In 2014, Governor Cuomo signed a new law, Chapter 526 of 2014. This law applies to counties, cities with populations of less than one million, towns and villages, who participate in multi-year planning through the use of a third party financial advisor, and have been noted by New York State as being financially stressed.

Chapter 526 of 2014 allows the municipalities mentioned above to be eligible for reimbursement from grants and loans provided by the Financial Restructuring Board for Local Governments (at their discretion) for all or part of the costs incurred for utilizing the third party financial advisor.

The new law became effective on December 17, 2014 and a chart of the municipalities eligible for the program can be found at www.frb.ny.gov.

V. **EMPLOYER TAX AND REPORTING GUIDELINES**

A. New York State Minimum Wage

Effective December 31, 2014, the New York State minimum wage is increasing from \$8.00 per hour to \$8.75 per hour. Information from the New York State Department of Labor can be found at www.labor.ny.gov.

B. IRS Form W-2 & Form W-3 Reporting

Form W-2 Reporting

Employee Copies – Must be postmarked by January 31, 2015.

Electronic Payee Statements – If employees give their consent, you may be able to furnish Copies B, C, and 2 of Form W-2 to your employees electronically. See Pub. 15-A, Employer's Supplemental Tax Guide, for additional information.

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Extended Due Date For Electronic Filers – If you file your 2014 Form W-2 and Form W-3 with the Social Security Administration (SSA) electronically, the due date is extended to March 31, 2015.

Form 944 – Use the “944” checkbox in **Box b** of Form W-3 if you filed Form 944, Employer’s Annual Federal Tax Return.

Earned Income Credit (EIC) Notice – You must notify employees who have no income tax withheld that they may be able to claim an income tax refund because of the EIC. You can do this by using the official IRS Form W-2 with the EIC notice on the back of Copy B or a substitute Form W-2 with the same statement. You must give your employee Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC), or your own statement that contains the same wording, if certain conditions apply. For more information, see Section 10 in Pub. 15 (Circular E).

Election Workers – Report on Form W-2 payments of \$600 or more to election workers for services performed in state, county, court and municipal elections. Do not report election worker payments on Form 1099-MISC. Social Security and Medicare taxes apply to election workers who are paid \$1,600 or more for 2014 and 2015. FICA is due on all wages, including the first \$1,599 of the election workers wages if they exceed \$1,600. If the employer anticipates the election worker exceeding the threshold, they may want to begin withholding FICA the first pay period.

Employment Tax Information – Detailed employment tax information (www.irs.gov) is given in

- Publication 15 (Circular E), Employer’s Tax Guide
- Publication 15A, Employer’s Supplemental Tax Guide
- Publication 15-B, Employer’s Tax Guide to Fringe Benefits

Household Workers – Social Security and Medicare taxes apply to wages of household workers who are paid \$1,900 or more for 2014 and \$1,900 for 2015.

Incorrect Address on Employee’s Form W-2

Employers may reissue a Form W-2 to the employee by placing the Form W-2 with an incorrect employee address in an envelope with the correct address for mailing to employees.

Box 1 – Wages

- Include total wages, prizes and awards paid to employees during the year. Also include certain fringe benefits including but not limited to:
 - Taxable cost of group term life insurance over \$50,000.
 - Taxable benefits from a Section 125 Plan, i.e., cash in lieu of benefits.
 - Certain scholarships and fellowship grants.
 - Taxable payments for moving expenses.
 - The cost of accident and health insurance premiums for 2% or more shareholder-employees paid by an S corporation

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- Employee or employer contributions to an Archer MSA
- Payments for non-job-related educational expenses, unless they are excludable under the educational assistance programs.

- Certain employee business expense reimbursements – payments in excess of the amounts treated as substantiated under an accountable plan and all payments made under a non-accountable plan.

- Cost of current insurance protection under a compensatory split dollar life insurance arrangement.

Box 2 – Federal income tax withheld

Box 3 – Social Security Wages

- Total should not be more than \$117,000 (for 2014).

- Total should not be more than \$118,500 (for 2015).

Box 4 – Social security tax withheld

- 6.20% of amount reported in Box 3.

Box 5 – Medicare wages

- No wage base limit.

Box 6 – Medicare tax withheld

- 1.45% of amount reported in Box 5 (plus any additional medicare tax).

Box 7 – Social security tips

Box 8 – Allocated tips

Box 9 – Do not enter an amount in Box 9

Box 10 – Dependent care benefits

- Include dependent care benefits under Section 125 and Section 129. Report excess over \$5,000 in Boxes 1, 3 and 5 as income. If reimbursed in subsequent year for current year, it must be reported on Form W-2. Health benefits and insurance under Section 125 not included on Form W-2. The employer should report the *Fair Market Value* of the daycare facility provided or sponsored by the employer.

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Box 11 – Non-qualified plans

- Show the amount of distributions to an employee from a non-qualified plan or a non-governmental Section 457(b) Plan, also include these distributions in Box 1. Distributions from governmental Section 457(b) plans must be reported on form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts.

Box 12 – Benefits included in Box 1

- Report the total value of taxable fringe benefits included in Box 1. Do not include amounts reported in Box 10.
- Do not report in Box 12 any items that are not listed as Codes A-EE below. (Do not enter more than four codes in Box 12).
- Do not report Section 414(h) (2) contributions in Box 12. Instead use Box 14 for these items, and any other information that you wish to give to your employee.

Applicable Reference Guide for Box 12 codes is as follows:

- A. Uncollected social security or RRTA tax on tips
- B. Uncollected Medicare tax on tips
- C. Taxable cost of group-term life insurance over \$50,000
- D. Elective deferrals under a Section 401(k) cash or deferred arrangement (including a SIMPLE 401 (k) arrangement)
- E. Elective deferrals under a Section 403(b) salary reduction agreement
- F. Elective deferrals under a Section 408(k)(6) salary reduction SEP
- G. Elective deferrals and employer contributions (including non-elective deferrals) to a Section 457(b) deferred compensation plan (state and local government and tax-exempt employers)
- H. Elective deferrals to a Section 501(c)(18)(D) tax-exempt organization plan
- J. Nontaxable sick pay
- K. 20% excise tax on excess golden parachute payments
- L. Substantiated employee business expense reimbursements (Federal rate)
- M. Uncollected social security or RRTA tax on taxable cost of group-term life insurance coverage over \$50,000 (for former employees)
- N. Uncollected Medicare tax on taxable cost of group-term life insurance coverage over \$50,000 (for former employees)
- P. Excludable moving expense reimbursements paid directly to employee
- Q. Non-taxable combat pay
- R. Employer contributions to an Archer MSA
- S. Employee salary reduction contributions under a Section 408(p) SIMPLE

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- T. Adoption benefits. Also, include adoption benefits paid or reimbursed from pre-tax contributions made by the employee under a section 125 plan.
- V. Income from the exercise of non-statutory stock options
- W. Employer contributions (including employee contributions through a cafeteria plan) to an employee's Health Savings Account (HSA)
- Y. Deferrals under a Section 409A nonqualified deferred compensation plan
- Z. Income under Section 409A on a nonqualified deferred compensation plan
- AA. Designated Roth Contributions under a Section 401(K) Plan
- BB. Designated Roth Contributions under a Section 403 (b) Salary Reduction Agreement
- DD. Cost of employer-sponsored health coverage
- EE. Designated Roth contributions under a governmental Section 457(b) plan

Box 13 Other

- Check the boxes that apply.
 - Statutory employee
Check this box for all statutory employees whose earnings are subject to Social Security and Medicare taxes but not subject to Federal income tax withholding.
 - Retirement plan
Check this box if the employee was an active participant (for any part of the year) in any of the following:
 - 1) A qualified pension, profit-sharing, or stock bonus plan described in Section 401(a) including a 401(k) plan;
 - 2) An annuity plan described in Section 403(a);
 - 3) An annuity contract or custodial account described in Section 403(b);
 - 4) A simplified employee pension (SEP) plan described in Section 408(k);
 - 5) A SIMPLE retirement account described in Section 408(p);
 - 6) A trust described in Section 501(c)(18);
 - 7) A plan for federal, state, or local government employees or by an agency or instrumentality thereof (other than a section 457 plan).
 - Third-party sick pay
Check this box only if you are a third-party sick pay payer filing a Form W-2 Form for an insured's employee or are an employer reporting sick pay payments made by a third party. See Sick Pay Reporting in Section 6 of Pub. 15-A.

Box 14

- Use for any other information you want to give your employee and label each item. For example – Section 414(h) contributions. (Not taxable on federal, taxable on state and city). The 100% lease value of a vehicle provided to your employee and reported in Box 1 must be reported here or on a separate statement to your employee.

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Box 15 – Box 20

- Use these boxes to report state and local tax information.

Form W-3 Reporting

A Form W-3 must be transmitted with copies of Form W-2 and filed by March 2, 2015. However, if you file electronically (not by magnetic media), the due date is March 31, 2015. You may owe a penalty for each Form W-2 filed late. File the entire Copy A page of Form W-2 with the entire page of Form W-3 at the following address:

Social Security Administration
Data Operations Center
Wilkes-Barre, PA 18769-0001

If you use “Certified Mail” to file, the zip code should be 18769-0002.

Amounts reported on related employment tax forms (for example Form W-2, Forms 941, 943, or 944) should agree with the amounts on Form W-3. If there are differences, you may be contacted by the IRS or SSA. You should retain a reconciliation for future reference.

Do not send undeliverable Form W-2s to the Social Security Administration. Keep undeliverable Form W-2s (employee copies) for four years demonstrating that you tried to deliver the Form W-2s, but could not. However, if the undelivered Form W-2 can be produced electronically through April 15th of the fourth year after the year of issue, you do not need to keep undeliverable employee copies.

C. IRS 1099 Miscellaneous Form Reporting

In general, Form 1099-MISC must be issued to all persons where payments for rents or services (including parts and materials), prizes and awards, and other income payments are \$600 or more. Generally payments to a corporation do not have to be reported on Form 1099-MISC. Attorneys and medical and healthcare providers are issued a Form 1099-MISC regardless of the type of entity (\$600 or more threshold still applies). The Form 1099-MISC must be filed with the IRS by March 2, 2015, (March 31, 2015 if filing electronically, which you may be required to do) along with a 1096 transmittal form. The recipient’s copy must be postmarked by February 2, 2015 (or February 17, 2015 if reporting amounts in box 8 or 14).

For entities located in New York State, the Internal Revenue Service Center paper filing address is:

Department of the Treasury
Internal Revenue Service Center
Austin, TX 73301

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D. Fringe Benefits

All fringe benefits are taxable unless the law specifically excludes it. IRS Publication 15-B, *Employer's Tax Guide to Fringe Benefits* discusses these exclusions in detail. Below is a highlight of some of the more commonly encountered fringe benefits.

1. Group Term Life Insurance

Under a group-term arrangement an employee may exclude from income the first \$50,000 of coverage. If the employee receives more than \$50,000 in group term life insurance, the following table should be used to determine the amount of taxable gross income:

Annual monthly cost per \$1,000 of coverage over \$50,000 (for 1 month)

Under age 25	\$0.05
25 through 29	0.06
30 through 34	0.08
35 through 39	0.09
40 through 44	0.10
45 through 49	0.15
50 through 54	0.23
55 through 59	0.43
60 through 64	0.66
65 through 69	1.27
70 and above	2.06

To calculate the total cost to include in the employee's wages, multiply the monthly cost by the number of full months' coverage at that cost.

2. Automobile Expense

Employer-provided cars that are used exclusively for business purposes are excluded from an employee's income if the business use can be substantiated. The value of employer-provided cars used for personal purposes, such as commuting to and from work, is included in an employee's gross income.

Annual Lease Value

If an employer provides an employee with an automobile for personal use, the benefit provided may be calculated as the Fair Market Value of the Annual Lease of the automobile. For an automobile that is provided to an employee for less than an entire year, the value of the benefit provided is either a pro-rated Fair Market Value of the Annual Lease or the Daily Lease Fair Market Value, whichever is applicable. The amount of the Annual Lease value or a pro-rated Annual Lease Value or the Daily Lease Value, as applicable, is included in the gross income of the employee.

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The Annual Lease Value of a particular automobile is calculated as follows:

- Determine the fair market value of the automobile as of the first date on which the automobile is made available to any employee of the employer for personal use.
- Select the dollar range in column 1 of the Annual Lease Value Table (see Appendix A) corresponding to the fair market value of the automobile. The Annual Lease Value for each year of availability of the automobile is the corresponding amount in column 2 of the Table.

If substantiating records are maintained, the Annual Lease Value is then multiplied by the percentage of personal use. This amount is included in the employee's gross income. (See Appendix A for worksheet).

Commuting Rule

The fair market value of the use of employer-provided commuter vehicles is included in an employee's gross income and is subject to withholding and employment taxes. Under a special valuation rule, however, the commuting use of an employer-provided vehicle is valued at \$1.50 per employee for each way of the commute. Use of the commuting rule requires that the vehicle is used solely for business and commuting purposes. A written policy must exist stating that the employee is not allowed to use the vehicle for personal purposes other than commuting or de minimis personal use.

Control Employee

A control employee cannot use the commuting rules. A control employee is defined for government employees by the IRS as any elected official or any employee whose compensation equals or exceeds that of a Federal employee at Executive Level V. For 2014 the level is \$147,200. For 2014 and 2015, an employer can also choose to define a control employee as any employee who received more than \$115,000 in pay the previous year, if they meet criteria as set forth by the Internal Revenue Service as an alternative to the traditional definition. The employee is considered highly compensated if they are an employee who owns 5% of the entity at anytime during the current or previous year. Also, if the employee received more than \$115,000 in pay the preceding year and was not in the top 20% of earners with the organization. If the government provides a vehicle to an employee with compensation in excess of these amounts, the government must calculate the auto fringe benefit using the annual lease value.

3. Employee Benefits Accountable and Unaccountable Plans (See IRS Publication 463)

Reimbursements

A reimbursement or other expense allowance arrangement is a system or plan that an employer uses to pay, substantiate, and recover expenses, advances, reimbursements, and amounts charged to the employer for employee business expenses.

Reimbursement for the business use of a personal car by an employee can be based on the actual operating expenses of using a car or the standard mileage rate determined by the IRS.

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Non Accountable Plan

The amount paid to an employee for travel and other necessary expenses of your business is treated as supplemental wages and is subject to income tax withholding, FICA & FUTA if the following conditions exist:

- Your employee is not required to or does not substantiate timely those expenses to you with receipts or other documentation.
- You advance an amount to your employee for business expenses and your employee does not return timely any amounts not used.
- You advance or pay an amount to your employee without regard for anticipated or incurred business expenses.

Accountable Plans

To be an accountable plan, the employer's reimbursement or allowance arrangement must require the employee to meet all three of the following:

- There must be a business connection for the expenses – this is satisfied if the expenses have been paid or incurred in connection with the performance of services as an employee.
- The employee must adequately account to the employer for these expenses within a reasonable period of time - this is satisfied if enough information is submitted to the employer to enable the employer to identify the specific nature of each expense and conclude that the expense was attributable to the employee's business activities.
- The employee must return any excess reimbursement or allowance within a reasonable period of time.

If the employee meets these three rules for accountable plans, the employer should not include any reimbursements in gross income of the employee.

4. Per Diem Allowance

If the employee is reimbursed by a per diem allowance under an accountable plan and the per diem allowance is less than or equal to the federal rate, the allowance is not to be included in the employee's gross income. If the per diem allowance is more than the federal rate, the amount in excess is included in gross income of the employee. (See Appendix F for Maximum Federal Per Diem Rates).

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5. Cell Phones

The value of the business use of an employer-provided cell phone will be considered a working condition benefit, if the cell phone was provided primarily for non-compensatory business reasons, and therefore, excludable from the gross income of the employee. Non-compensatory business reasons include:

- The need to contact the employee at all times for work-related emergencies,
- Requirement that the employee be available to speak with clients at times when they are away from the office,
- The need to speak with clients in another time zone at times outside of the employee's normal workday.

If the cell phone is provided as a way to attract new employees, or to increase compensation to employees for example, you cannot exclude the value of the cell phone from gross wages.

If you meet the non-compensatory business reason for providing the cell phone, any personal use of the cell phone will be deemed a De Minimis (minimal) fringe benefit, also excludable from the income of the employee.

VI. IRS MILEAGE RATES

The amounts for the various deductible costs for use of a car will be effective January 1, 2015 and are as follows:

- The standard mileage rate for the cost of operating a car increased to 57.5 cents per mile for all business miles driven. The previous rate was 56 cents for 2014.
- The standard mileage rate for the use of a car when giving services to a charitable organization remains at 14 cents per mile. The previous rate was 14 cents for 2014.
- The standard mileage rate for use of your car for medical reasons decreased to 23 cents per mile. The previous rate was 23.5 cents for 2014.
- The standard mileage rate to use when computing deductible moving expenses decreased to 23 cents per mile. The previous rate was 23.5 cents for 2014.

VII. RETIREMENT CONTRIBUTION PLANS UPDATE

New Contribution Rates

The 2014-2015 Teachers' Retirement Systems (TRS) employer contribution rate is 17.53%. The 2015-2016 TRS rate is estimated to be between 13.00% and 13.50% of payroll.

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The 2014-2015 regular pension contribution rate for Employees' Retirement Systems (ERS) is 27.4% for Tier 1, 25.2% for Tier 2, 20.2% for Tier 3 and Tier 4, 16.5% for Tier 5, and 10.9% for Tier 6. The 2015-2016 ERS regular contribution rate is 25.0% for Tier 1, 23.0% for Tier 2, 18.7% for Tier 3 and Tier 4, 15.4% for Tier 5, and 10.5% for Tier 6.

The Police and Fire Retirement System regular pension contribution rates for 2014-2015 for Tier 1 is 13.9%-28.4%, Tier 2 is 12.2%-27.6%, Tier 3 is 12.2%-26.1%, Tier 5 is 7.5%-22.3%, and Tier 6 is 2.6%-15.6%. For 2015-2016, regular pension contribution rate for Tier 1 is 12.5%-25.8%, Tier 2 is 11.0%-25.1%, Tier 3 is 11.0%-24.4%, Tier 5 is 7.2%-20.4%, and Tier 6 is 2.3% -14.5%. Each percentage in the tier is determined based upon the various retirement plans related to that tier.

VIII. GASB UPDATE

GASB Statement No. 68, Accounting and Financial Reporting for Pensions - an Amendment of GASB Statement No. 27

In June 2012, GASB issued Statement No. 68, *Financial Reporting for Pensions - an Amendment of GASB Statement No. 27*, which is effective for fiscal years beginning after June 15, 2014. This Statement addresses how state and local governments should account for and report their costs and obligations related to pensions excluding other post-employment benefits (OPEB). The administration of the pension plans such as Employees' Retirement Systems (ERS) and Teachers' Retirement Systems (TRS) will be responsible for obtaining an actuarial valuation and providing the information to the local government for reporting.

On the fund level modified accrual based financial statements, recognition of pension expenditures and liabilities is equal to the amount expected to be liquidated with expendable available financial resources. However, financial statements prepared on an accrual-basis of accounting or the government-wide financial statements, a net pension liability (NPL) will be reported. The net pension liability is the total pension liability (an actuarial present value of projected benefit payments attributed to past periods) net of the pension plan's fiduciary net position.

Statement No. 68 also establishes disclosure requirements for information about the plans in which an employer participates, the funding policy followed, the actuarial valuation process and assumptions used.

GASB Statement No. 69, Government Combinations and Disposals of Government Operations

In January 2013, GASB issued Statement No. 69, *Government Combinations and Disposals of Government Operations*, which is effective for period beginning after December 15, 2013, but earlier application is encouraged. Government combinations may refer to mergers, acquisitions or transfers of operations. In general, this Statement requires measuring assets and liabilities by carrying value in a merger, but by acquisition value in an acquisition. This Statement also defines the term "operations" for purposes of this Statement's applicability, and requires the use of carrying value to measure the assets and liabilities in a transfer of operations. In addition, this Statement requires disclosures to enable financial statement users to evaluate the nature and financial effects of these transactions.

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GASB Statement No. 70, Accounting and Financial Reporting for Nonexchange Financial Guarantees

In April 2013, GASB issued Statement No. 70, *Accounting and Financial Reporting for Nonexchange Financial Guarantees*, effective for periods beginning after June 15, 2013, but earlier application is encouraged. This Statement requires a government that extends nonexchange financial guarantee to recognize a liability when it is more likely than not that the government will be required to make a payment on the guarantee. The statement also requires a government that issues an obligation guaranteed in a nonexchange transaction to recognize revenue to the extent of its reduction in guaranteed liabilities.

GASB Statement No. 71, Pension Transition for Contributions Made Subsequent to the Measurement Date

In November 2013, GASB issued Statement No. 71, *Pension Transition for Contributions Made Subsequent to the Measurement Date*. This Statement was issued to address an issue with the transition provisions of Statement No. 68, *Accounting and Financial Reporting for Pensions*, and is required to be applied simultaneously with the provisions of Statement No. 68. The Statement amends paragraph 137 of Statement No. 68 to require that, at transition, a government recognize a beginning deferred outflow of resources for its pension contributions, if any, made subsequent to the measurement date of the beginning net pension liability.

Further detail regarding the GASB Statements can be viewed at <http://gasb.org>.

IX. NOT-FOR-PROFIT UPDATE

In prior years there were important changes to the New York Not-for-Profit Corporation Law (“NPCL”) and other statutes relevant to nonprofit organizations and to certain tax reporting applicable to IRS Form 990. The information below summarizes some of the most significant changes that nonprofits should familiarize themselves with.

New York Non-Profit Revitalization Act of 2013 (the “Act”)

The New York Non-Profit Revitalization Act of 2013 seeks to modernize the New York Not-For-Profit Corporation Law by enhancing oversight, modernizing governance and reducing bureaucracy and administrative red tape which are confusing and burdensome to nonprofits and often prompt New York based charities to incorporate in another state.

The Act was placed in effect on July 1, 2014 and its key provisions are as follows:

Classifications

- The Act will classify nonprofits as either “charitable” or “non-charitable” and eliminates the current A, B, C and D classifications. The new classifications do not require currently existing Type A, B, C or D nonprofits to make any submissions or filings with a new classification.

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- Types B and C entities, as well as Type D entities formed for a charitable purpose, will be automatically designated as “charitable”. Type A and all other Type D entities will be considered “non-charitable.”
- These changes are aimed at clarifying the law and reducing startup costs and delays and should make it easier for nonprofits to determine the correct classification.

Board Procedures and Meetings

- Under the Act, board and membership meeting notices may be transmitted by fax or email and electronic communication may also be used for waivers of notice, proxy designations by members and to give unanimous written consents.
- The Act also permits board members to participate in meetings by video communication such as Skype unless restricted by the entity’s bylaws or certificate of incorporation.

Mandatory Policies for Conflicts of Interest and Whistleblower

Conflicts of Interest Policy:

- The Act mandates that nonprofits adopt a conflict-of-interest policy that requires its directors, officers and key employees to act in the nonprofit’s best interest. This requirement applies to all nonprofits incorporated or transacting business in New York. A nonprofit which already has a conflict-of-interest policy in place pursuant to any other law that is substantially similar to the provisions set forth in the Act will be deemed compliant.
- The Act requires that the conflict-of-interest policy must include, at a minimum, certain specific definitions, procedures and prohibitions such as: (1) a definition of what constitutes a conflict of interest; (2) procedures for disclosing a conflict of interest to the audit committee or board; and (3) procedures for documenting the existence and resolution of the conflict including the minutes of any meeting at which the conflict was discussed or voted upon.

Whistleblower Policy:

- All nonprofits with 20 or more employees and annual revenue in excess of \$1 million in the prior fiscal year must adopt a whistleblower policy aimed at protecting its directors, officers, employees and volunteers who report suspected improper conduct from retaliation.
- In addition to other required minimum provisions, the whistleblower policy must include a requirement that an employee, officer or director be designated to administer the policy and report to the audit committee or the board.

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Related-Party Transactions

- Consistent with current NPCL, nonprofits cannot enter into a transaction with a related party unless the nonprofit's board determines that the transaction is reasonable, fair and in the best interest of the nonprofit.
- In addition to current disclosure requirements for directors and officers regarding direct and indirect interests in a related-party transaction, the Act now requires good faith disclosures by "key employees."
- With regard to charitable organizations, the Act specifically requires an independent board or committee of the board to consider alternatives to any related-party transactions to the extent available; to approve the transaction as fair and reasonable through a majority vote; and to contemporaneously document the approval and consideration of alternatives.

Required Financial Reporting and Audit Procedures

- For all organizations subject to registration for charitable solicitation, the Act raises the gross revenue thresholds for submission of unaudited, reviewed or audited financial statements.
- Unaudited (compiled) financial statements will be required when gross revenues/support are less than \$250,000.
- Reviewed financial statements will be required when gross revenues/support are between \$250,000 to \$500,000; the upper limit will increase to \$750,000 on July 1, 2017 and then again to \$1 million on July 1, 2021.
- Audited financial statements will be required when gross revenues/support are in excess of \$500,000; this threshold will be raised to in excess of \$750,000 as of July 1, 2017 and in excess of \$1 million as of July 1, 2021.
- The Act also contains other provisions relating to overseeing the accounting and financial reporting processes and reviewing the scope of the audit with its auditing firm before commencement of the audit.

Miscellaneous Provisions of the Act

- Certain major corporate actions, such as mergers, consolidations, sale of all or substantially all assets, dissolutions and changes to the certificate of incorporation, may now be approved by the Attorney General, in lieu of obtaining a court order.
- The requirements for certain real-property transaction approvals are clarified. Please consult the Act's full text for a complete discussion of these changes.

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- The Act expressly prohibits employees, including its CEO, from serving as chair of the board or in an officer position with similar responsibilities effective July 1, 2015. This requirement will help promote clear lines of accountability between management and the board.
- Other Act provisions deal with executive compensation, privacy and definitions of “independent director” and “entire board.” Please consult the Act’s full text for a complete discussion of these requirements.

The full text of the Act can be found at: <http://open.nysenate.gov/legislation/bill/A8072-2013>.

Private Business Use and Exempt Bonds, IRS Notice 2014-67

On October 24, 2014, the Internal Revenue Service (IRS) issued Notice 2014-67 to amplify existing management contract guidance under Revenue procedure 97-13 which provides various safe harbors under which management contracts will not be treated as causing private use of bond-financed facilities.

The Notice provides important guidance and increased flexibility for issuers and conduit borrowers of tax-exempt bonds regarding contracting with private parties in a manner that avoids “private use” by such parties of bond-financed facilities. The Internal Revenue Code restricts private use of facilities financed by certain categories of tax-exempt bonds, including governmental bonds and bonds issued for the benefit of hospitals and other organizations that are tax exempt under Section 501(c)(3) of the Internal Revenue Code. The Notice addresses so-called “management contracts,” i.e., contracts with private parties that provide services with respect to bond-financed property, states that no private use will be deemed to arise from such contracts provided their term does not exceed 5 years and the compensation methodologies adhere to an expanded menu of permissible arrangements.

The Notice also addresses the treatment, for private use purposes, of Accountable Care Organizations (ACOs) established under the Affordable Care Act, and provides helpful guidance for participation in such organizations without creating “private use.” Furthermore the Notice clarifies that hospitals or other health care organizations will not be treated as creating private use of bond-financed facilities through their participation in ACOs mandated by the Medicare Shared Savings Program under the Affordable Care Act.

The full text of the Notice can be found at: <http://www.irs.gov/pub/irs-drop/n-14-67.pdf>

New Form 1023-EZ

The IRS announced a new, shorter tax-exemption application on Form 1023-EZ. The new Form is just three pages long and simplifies many aspects of the tax-exemption applications that do not necessarily apply to small charitable organizations.

The IRS anticipates that as many as 70 percent of all applicants will qualify to use the new simplified form. In order to use the new form, an organization must certify that it satisfies certain requirements, including but not limited to having gross receipts of \$50,000 or less and assets of \$250,000 or less. Certain organizations are ineligible to utilize the new form regardless

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of their income or assets, including foreign entities, entities that are not corporations, unincorporated associations, or trusts; and churches, schools, and hospitals.

Preparation of IRS Form 990

- A Form 990-N filer that changes its accounting period must report this change either on Form 990/990-EZ, Form 1128, or by sending a letter to the IRS.
- The instructions now clarify what documentation must be attached to Form 990 to support an organization's name change, termination, dissolution, merger or revocation of exemption by the IRS.
- The instructions to Part VI clarify that directors' compensation for non-director independent contractor services to the organization and related organizations must be reported in Part VII, Section A.
- The Glossary section clarifies that "contributions" exclude donations of services and discounts provided on sales of goods in the ordinary course of business.
- Appendix D clarifies that public inspection requirements apply to both original and amended returns.
- The instructions to Part XI, *Statement of Functional Expenses*, clarify how to report expense payments and reimbursements to contractors.

Further details regarding the above and other changes to IRS Form 990 can be found at the IRS web site: www.irs.gov

X. CHANGES TO FEDERAL GRANT REQUIREMENTS

On December 26, 2013 the OMB issued final guidance entitled "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards." This document supersedes previously issued circulars from OMB including but not limited to Circulars A-21, A-87, A-89, A-102 A-110, A-122, and A-133 and the guidance in Circular A-50.

The audit requirement changes under Subpart F are effective for fiscal years beginning on or after December 26, 2014. Auditees required to have a single audit for the fiscal year end December 31, 2015 and later will need to be in compliance with the Uniform Grant Guidance.

Some key changes included in the final regulation are as follows:

- Single Audit threshold of federal expenditures increased from \$500,000 to \$750,000.
- Minimum threshold for a Type A program increased from \$300,000 to \$750,000.

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- Minimum threshold to perform risk assessment on a Type B program changed from \$100,000 to 25% of the Type A threshold.
- The percentage of coverage of federal expenditures required to be audited for a high risk auditee decreased from 50% to 40% and for a low-risk auditee from 25% to 20%.
- The threshold for reporting a questioned cost finding increased from \$10,000 to \$25,000.

The Federal Audit Clearinghouse's website and Internet Data Entry System (IDES) are used to file Data Collection Forms (SF-SAC) and single audit reporting packages with the federal government. Last year they revised the website as well as the Data Collection Form for fiscal years 2014, and 2015. All users have to register with the new website, using a name and email address. The certifying official for the auditor and auditee will have to log in under their unique ID and password to certify the submission.

Additionally, effective January 2, 2015, all 2014 fiscal year end audits and Form SF-SAC submissions must include a standard audit finding reference number format (e.g.2014-001 through 2014-999) and audit submissions must be unlocked, unencrypted and in a text-searchable PDF format.

The website can be found at <https://harvester.census.gov/fac>.

XI. 1040 CONSIDERATIONS

The following is a summary of new tax law changes:

A. Tax Rate Brackets

In 2014 there were increases to the income levels for the 39.6% tax bracket. The higher tax bracket applies if income exceeds \$406,750 for single taxpayers, \$432,200 for head of household, \$457,600 for married persons filing jointly ("MFJ") and qualifying widows/widower, and \$228,800 for married persons filing separate ("MFS"). All of the other tax brackets have been adjusted for inflation.

Workers with wages and other compensation in excess of \$250,000 for MFJ, \$125,000 for MFS, and \$200,000 for all others are subject to the, additional Medicare Tax of .9%. Employers are obligated to withhold the additional tax beginning in the pay period when wages exceed \$200,000 for the calendar year. The employer is obligated regardless of the filing status or income from other sources. If the taxpayer does not owe the additional withholding for Medicare, they can claim a credit on their 2014 income tax return.

B. Preferential Rates for Capital Gains and Qualified Dividends

Unchanged for 2014, qualified dividends and long-term capital gains can avoid tax totally under the 0% capital gains rate, or be subject to capital gains rates of 15% or 20%. The capital

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gains rate depends on taxable income, how much of the taxable income consists of qualified dividends and eligible long-term gains, and filing status. The 20% capital gain rate has the same taxable income thresholds as the 39.6% ordinary income tax rate mentioned above. The 0%, 15%, and 20% rates do not apply to long term gains subject to the 28% rate or the 25% rate for unrecaptured real estate depreciation.

C. Net Investment Income Tax

The Net Investment Income Tax (“NIIT”) is still applicable for 2014. This affects income tax returns of taxpayers who have net investment income and have modified adjusted gross income (“MAGI”) over the following thresholds: MFJ or qualifying widow/widower - \$250,000, MFS - \$125,000, single - \$200,000, and head of household - \$200,000.

If MAGI surmounts the threshold, a 3.8% tax applies to the lesser of the net investment income or the excess of MAGI over the threshold.

D. Phase-out of Personal Exemptions and Itemized Deductions

Personal exemptions and itemized deductions are subject to a phase-out. Each \$3,950 personal exemption for 2014 is subject to a phase-out if adjusted gross income (“AGI”) exceeds \$305,050 if MFJ or qualifying widow/widower, \$279,650 if head of household, \$254,200 if single, and \$152,525 if MFS.

The above AGI phase-out thresholds for exemptions also applies to the phase-out of itemized deductions claimed, but there is no phase-out of deductions for casualty/theft losses, investment interest, medical expenses and gambling losses. Other itemized deductions are reduced by 3% of AGI exceeding the applicable threshold, but the total reduction cannot exceed 80% of the deductions.

E. Patient Protection and Affordable Care Act

Beginning in the 2014 calendar year, individuals must carry minimum essential health care coverage and were able to acquire coverage through the Patient Protection and Affordable Care Act market place. Individuals with marketplace coverage may be entitled to the §36B premium assistance tax credit when filing their 2014 return. If a taxpayer received an advanced payment of the credit they are required to file a 2014 Form 1040.

The §36B premium assistance tax credit is available for taxpayers who meet the following household income criteria:

- \$11,490 to \$45,960 for one individual;
- \$15,510 to \$62,040 for a family of two; and
- \$23,550 to \$94,200 for a family of four.

Taxpayers should receive one of the following forms which pertain to healthcare coverage and these forms should be utilized when filing your 2014 returns:

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- Form 1095-A Health Insurance Marketplace Statement
- Form 1095-B Health Coverage
- Form 1095-C Employer-Provided Health Insurance Offer and Coverage

There are exemptions provided by the IRS which can be claimed on Form 8965 – Health Coverage Exemptions. These include:

- Religious Conscience Objections
- Members of federally recognized Native American Tribes
- Members of health care sharing ministries
- Individuals who are incarcerated
- Lack of affordable coverage
- Household income below filing level
- Certain hardships

F. Standard Deductions

The standard deduction for 2014 is \$12,400 for MFJ and surviving spouse, \$9,100 for head of household, or \$6,200 for single or MFS taxpayers. The additional standard deduction for being 65 or older or blind is \$1,550 if single or head of household (\$3,100 if 65 and blind). If MFJ, the additional standard deduction is \$1,200 if one spouse is 65 or older or blind, \$2,400 if both spouses are at least 65 (and one is 65 and blind).

G. Deduction Floor for Medical Expenses

Still in effect for 2014, the floor for deducting medical expenses as an itemized deduction increases to 10% of AGI if you and your spouse are under age 65 at the end of the year. If either you or your spouse is age 65 or older, expenses exceeding 7.5% of AGI may be taken, as under pre-2013 rules.

H. Social Security Wage Base

For 2014, the tax rate on the employee portion of Social Security is 6.2% on wages up to \$117,000; therefore Social Security tax withholdings will not top \$7,254. Medicare tax of 1.45% is withheld from all wages regardless of amount.

Self-employment taxes of 15.3% apply to earnings up to \$117,000 after the earnings are decreased by 7.65%. The 15.3% rate equals 12.4% for Social Security plus 2.9% for Medicare. If net earnings are in excess of \$117,000, the 2.9% Medicare rate applies to the total amount. One half of the self-employment tax may be taken as an above the line deduction. The maximum self employment tax is reached at \$14,508.

Note that if earnings exceed the applicable threshold, net self-employment earnings could be subject to the new .9% additional Medicare Tax – see *Tax Rate Brackets*.

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I. IRA and Roth IRA Contribution Phase-out

For 2014, the contribution limit for traditional IRAs and Roth IRAs is \$5,500, or \$6,500 for those age 50 or older. The contribution deduction for traditional IRAs is phased-out for active plan participants with MAGI between \$60,000 and \$70,000 for a single person or head of household, or between \$96,000 and \$116,000 for MFJ. The phase-out range is \$181,000-\$191,000 for a spouse who is not an active plan participant and who files jointly with a spouse who is an active plan participant.

J. Bonus Depreciation

For 2014, Congress extended the previous year's §179 deduction amounts. First-year expensing is permitted up to a limit of \$500,000 for qualifying property placed in service in 2014. The limit starts to phase-out if the total cost of qualifying property is in excess of \$2,000,000. In addition, bonus depreciation of 50% of the cost of qualifying property placed in service has also been extended through 2014.

K. IRS Mileage Allowance

The IRS standard business mileage rate for 2014 is 56 cents a mile. The medical expense and moving expense deduction is 23.5 cents a mile. For charitable volunteers, the mileage rate is 14 cents a mile.

L. Alternative Minimum Tax

Starting in 2014, the AMT exemptions, exemption phase-out thresholds, and the dividing line between the 26% and 28% AMT brackets are adjusted for inflation. The 2014 AMT exemptions are \$82,100 for MFJ and surviving spouse, \$52,800 for single and head of household, \$23,500 for estates and trusts, and \$41,050 for MFS. The 2014 AMT exemptions phase-out are \$156,500 for MFJ and surviving spouse, \$117,300 for single and head of household, \$78,250 for MFS and Estates or Trusts.

M. Eligibility for Saver's Credit

The savers credit helps offset part of the first \$2,000 of workers voluntary contributions to IRAs and 401(k) plans and similar workplace retirement programs. Also known as the retirement savings contribution credit, the saver's credit is available in addition to any other tax savings that apply.

The adjusted gross income brackets for the 10%, 20%, and 50% credits are increased for 2014. Credits are not allowed when AGI reaches \$30,000 for single taxpayers, \$45,000 for head of household and \$60,000 for MFJ and surviving spouse.

N. Adoption Credit

In 2014 taxpayers will see an increase in the credit and exclusion amounts for the adoption credit. The amount in 2014 will be increased to \$13,190.

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O. Deductions Limits for Long-Term Care Premiums

The maximum amount of age-based long-term care premiums that can be included as deductible medical expenses for 2014 (subject to the 7.5% or 10% of AGI floor) is \$370 if you are age 40 or younger at the end of 2014; \$700 for those age 41 through 50; \$1,400 for those age 51 through 60; \$3,720 for those age 61 through 70; and \$4,660 for those over age 70.

P. Foreign Earned Income and Housing Exclusions

The foreign earned income exclusion for 2014 is \$99,200. In addition, the housing expense limitation to use in calculating your maximum housing exclusion is generally \$29,760. However, the housing expense exclusion is based on locality, so in some cases there will be adjustments to the \$29,760 used to calculate the final housing exclusion.

Q. Report of Foreign Bank and Financial Accounts (“FBAR”)

After June 30, 2013, FBARs must be electronically filed to the Treasury Department. Taxpayers who have a financial interest in or signature authority over at least one foreign account and the aggregate value of the accounts exceeds \$10,000 must file a FBAR. They are not filed with your income tax return. They are due by June 30th of the following year in which you had the foreign financial interest.

R. First-Time Homebuyer’s Credit

The first time homebuyer’s credit, for homes purchased after April 8, 2008 and before January 1, 2009 has to be recaptured over a 15 year period. The 15 year period began in 2010. In addition, any taxpayer who received the first time homebuyer’s credit in 2011 or 2012 and sold the house in 2014 must repay the entire credit in 2014.

S. Annual Exclusion for Gifts

With regards to gift taxes, the per-donee exclusion for gifts of present interest is \$14,000, for 2014.

T. Gift Tax and Estate Tax Exemption

For 2014 gift tax and estate tax purposes, the basic exemption amount is \$5,340,000 for federal taxes. The top rate has increased to 40%.

TAX BREAKS EXTENDED FOR 2014

As of December 19, 2014, numerous tax breaks expiring on December 31, 2013, have been extended by the Senate and House of Representatives. The President signed the bill furthering the tax breaks for an additional year. The following tax breaks will be applicable in 2014 but

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not in 2015, unless Congress enacts legislation extending these breaks, for an additional tax year:

- The \$250 eligible educator deduction.
- The \$2,000,000 exclusion of discharge of indebtedness on a qualified residence.
- The ability to treat certain mortgage insurance premiums as the additional acquisition interest expense.
- The qualified tuition deduction.
- The ability to distribute to a charity directly from an IRA for an individual over the age of 70 ½ without including the distribution in income or deducting the amount as a charitable contribution.
- The deduction of state and local sales tax in lieu of deducting state and local income tax.
- The Work Opportunity Tax Credit.
- The 100% exclusion on the gain of the sale of qualified small business stock.
 - *For QSBS acquired in 2014 the 50% exclusion applies*
- The §179 deduction remains at \$500,000 and the ceiling for cost of property placed in service remains at \$2,000,000 (instead of reverting back to the lower \$25,000 deduction with a maximum ceiling on property cost of \$200,000), and continues to apply to qualified real property.
- The ability to amortize qualified leasehold improvement property, qualified restaurant improvement property, and qualified retail improvement over a 15 year term remains in effect for 2014.
- The built-in gains tax period for S Corporations remains at 5 years instead of reverting back to 10 years.
- Extending the commuter pre-tax deduction for employers who offer the program.

NEW YORK STATE CONSIDERATIONS

Property Tax Freeze Credit

The property tax freeze credit is a two year tax relief program that reimburses qualifying New York State homeowners for the increases in local property taxes on their primary residences. Eligibility for the program is as follows:

- Receive the STAR property tax exemption
 - The property must be the homeowner's primary residence.
 - The total household income must be \$500,000 or less.
- The School District where the homeowner's property is located must comply with

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the New York State Property Tax Cap.

PREPARING FOR 2015

The IRS has released some updates for the 2015 tax year regarding tax rates, exemptions, and standard deductions.

A. Tax Rate Brackets

The tax bracket of 39.6% in 2015 will apply if taxable income exceeds \$413,200 for single taxpayers, \$439,000 for head of household, \$464,850 for married persons filing jointly (“MFJ”) and qualifying widows/widower, and \$232,425 for married persons filing separate (“MFS”). All of the tax brackets have been adjusted for inflation.

B. Standard Deductions

The standard deduction for 2015 is \$12,600 for MFJ and surviving spouse, \$9,250 for head of household, or \$6,300 for single or MFS taxpayers. The additional standard deduction for being 65 or older or blind is \$1,550 if single or head of household (\$3,100 if 65 and blind). If MFJ, the standard deduction is \$1,250 if one spouse is 65 or older or blind, \$2,500 if both spouses are at least 65 (and one is 65 and blind).

C. Personal and Dependency Exemptions

Personal exemptions and dependency exemptions are increasing to \$4,000 in 2015. Exemptions and itemized deductions are subject to a phase-out. Each \$4,000 personal exemption for 2015 is subject to a phase-out if adjusted gross income (“AGI”) exceeds \$309,900 if MFJ and surviving spouse, \$284,050 if head of household, \$258,250 if single, and \$154,950 if MFS.

The above AGI phase-out thresholds for exemptions also apply to the phase-out of itemized deductions claimed, but there is no phase-out of deductions for casualty/theft losses, investment interest, medical expenses and gambling losses. Other itemized deductions are reduced by 3% of AGI exceeding the applicable threshold, but the total reduction cannot exceed 80% of the deductions.

D. Alternative Minimum Tax

Starting in 2015, the AMT exemptions, exemption phase-out thresholds, and the dividing line between the 26% and 28% AMT brackets are adjusted for inflation. The 2015 AMT exemptions are \$83,400 for MFJ and surviving spouse, \$53,600 for single and head of household, \$23,800 for estates and trusts, and \$41,700 for MFS. The 2015 AMT exemptions phase-out are \$158,900 for MFJ and surviving spouse, \$119,200 for single and head of household, \$79,450 for MFS, Estates, and Trusts.

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E. Gift Tax and Estate Tax Exemption

For 2015 gift tax and estate tax purposes, the basic exemption amount is \$5,430,000. The top tax rate has increased to 40%.

F. Annual Exclusion for Gifts

With regards to gift taxes, the per-donee exclusion for gifts of present interest is \$14,000, for 2015.

G. Adoption Credit

In 2015 taxpayers will see an increase in the credit and exclusion amounts for the adoption credit. The amount in 2015 will be increased to \$13,400.

XII. HEALTH CARE REFORM CHANGES EFFECTIVE FOR 2015

The Patient Protection and Affordable Care Act is designed to ensure that all Americans have access to quality affordable health care, and is intended to create transformation within the health care system necessary to contain costs in the future. Below is a summary of considerations with regards to the Affordable Care Act.

A. Individuals and Families

1. Open Enrollment for the Health Insurance Marketplace began in 2013. The enrollment period for 2015 is from November 15, 2014 through February 15, 2015. Eligible individuals and families can enroll or gather information at www.HealthCare.gov.
2. As of January 1, 2013 the floor for deducting medical expenses as an itemized deduction increases to 10% of AGI if you and your spouse are under age 65 at the end of the year. If either you or your spouse is age 65 or older, expenses exceeding 7.5% of AGI may be taken, as under pre-2013 rules.
3. In 2015 there will be a tax credit for the insurance premiums obtained through the Health Insurance Marketplace. This tax credit was designed to make health insurance more affordable. There will be income limitations on qualifying for the credit. The credit can be claimed in advance or with your filed tax return.
4. Starting in 2014 and continuing in 2015, you and your family must have health care coverage or have an exemption for coverage. If one does not have either, a payment will be required to be made with the 2014 and 2015 tax returns.
5. Health Savings Account (“HSA”)

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- a. The annual contribution limit for HSA plans for 2015 is \$3,350 for individuals and \$6,650 for an individual with family coverage. These contributions are not subject to tax.
 - b. HSA holders 55 and older, can save an additional \$1,000 bringing the single amount to \$4,350 and \$7,650 for a family.
 - c. High deductible health plans allow for an annual deductible that is no less than \$1,300 for self-only coverage or \$2,600 for family coverage. Annual out of pocket costs cannot exceed \$6,450 for self-only coverage or \$12,900 for family coverage.
6. Flexible Spending Arrangement (“FSA”)
- a. The annual contribution limit for an FSA is increasing in 2015 to \$2,550, up \$50 from 2014.
 - b. FSA plans are permitted to allow for a maximum grace period of 2 months and 15 days following the end of the plan year for unused contributions to be used against expenses incurred in the subsequent plan year.
 - c. Currently, employers may amend their plan documents (has to be amended by the last day of the plan year to be effective for that year) to allow participants to roll forward \$500 of amounts not utilized to the subsequent year, if they want to offer this benefit. This rollover will not affect the \$2,500 annual contribution limit described above.
 - d. Please note that the Plan has to choose to provide for either the grace period mentioned above, or the rollover of up to \$500.

B. Employers

1. Continuing in 2015, small employers with 50 or fewer employees became eligible in 2013 to purchase affordable insurance through the Small Business Health Options Program (“SHOP”).
2. Many employers are now required to report the value of provided health insurance on box 12 of the W-2 with a code of “DD”. Employers filing fewer than 250 W-2s will be required to report the cost of provided health insurance once the transitional period ends. The Internal Revenue Service has stated that any expansion of the reporting rules or ending of the transitional relief will only apply for calendar years that start at least six months after the new rules are issued. See <http://www.irs.gov/uac/Form-W-2-Reporting-of-Employer-Sponsored-Health-Coverage> for more information.
3. Small business owners could be eligible for the Small Business Health Care Tax Credit if you cover at least 50 percent of your full-time employee’s premium and

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you have less than 25 full time employees with average wages under \$50,800 (for 2014) with a “qualifying arrangement”. However, beginning in 2014, the credit is only available for two consecutive taxable years.

4. A “qualifying arrangement”, as defined by the Internal Revenue Service is where an eligible small employer pays premiums for each employee enrolled in health care coverage offered by the employer through the SHOP in an amount equal to a uniform percentage (not less than 50%) of the premium cost of the coverage.
5. Employers that self-insure may be required to pay a fee to fund the Patient Centered Outcomes Research Fund, see <http://www.irs.gov/uac/Patient-Centered-Outcomes-Research-Trust-Fund-Fee:-Questions-and-Answers> for more information.
6. Effective 2015, employers that provide health coverage to employees must file an annual return reporting certain information for each employee covered.
7. For calendar year 2015, employers with 100 or more (this number is reduced to 50 for 2016) full time employees could be subject to a penalty fee if adequate affordable coverage is not offered to full time employees and one or more of these employees get a premium tax credit.
8. To avoid paying fees in 2015, among other requirements, employers will be required to offer coverage to 70% of their full time employees and their dependent children. In 2016, employers must offer coverage to 95% of their full time employees and dependent children.

For more information, visit <https://www.healthcare.gov>.

Feel free to contact our Suffolk County office at (631) 234-4444 or you can e-mail us at mvanduyne@rsabrams.com if you have any questions. You can also visit our website at www.rsabrams.com for updated information and to obtain additional copies of our annual New Developments, Year End Update and 1040 Considerations. We suggest you share this update with your Board.

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**EMPLOYER'S WORKSHEET TO CALCULATE EMPLOYEE'S
TAXABLE INCOME FOR EMPLOYER-PROVIDED
VEHICLE FOR CALENDAR YEAR 2015**

EMPLOYEE: _____

DESCRIPTION OF VEHICLE: _____

DATE VEHICLE FIRST MADE AVAILABLE TO ANY EMPLOYEE: _____

DATE VEHICLE FIRST MADE AVAILABLE TO THIS EMPLOYEE: _____

Method – Annual Lease Value Method

Fair market value of vehicle (to be redetermined at the beginning of the fifth year and every four years thereafter)	\$ _____
Annual lease value, per attached chart	_____
Enter number of days during the year that the vehicle was available	x _____
	/ _____ 365
Prorated annual lease value	= _____
Personal use % (personal/total miles, per statement from employee and substantiated)	x _____ %
Personal annual lease value	_____
If fuel is provided by employer, enter personal miles _____ x 0.055	+ _____
Personal use taxable income	\$ _____

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ANNUAL LEASE VALUE TABLE

Automobile Fair Market Value	Annual Lease Value	Automobile Fair Market Value	Annual Lease Value
\$ 0 - 999	600	\$ 22,000 - 22,999	6,100
1,000 - 1,999	850	23,000 - 23,999	6,350
2,000 - 2,999	1,100	24,000 - 24,999	6,600
3,000 - 3,999	1,350	25,000 - 25,999	6,850
4,000 - 4,999	1,600	26,000 - 27,999	7,250
5,000 - 5,999	1,850	28,000 - 29,999	7,750
6,000 - 6,999	2,100	30,000 - 31,999	8,250
7,000 - 7,999	2,350	32,000 - 33,999	8,750
8,000 - 8,999	2,600	34,000 - 35,999	9,250
9,000 - 9,999	2,850	36,000 - 37,999	9,750
10,000 - 10,999	3,100	38,000 - 39,999	10,250
11,000 - 11,999	3,350	40,000 - 41,999	10,750
12,000 - 12,999	3,600	42,000 - 43,999	11,250
13,000 - 13,999	3,850	44,000 - 45,999	11,750
14,000 - 14,999	4,100	46,000 - 47,999	12,250
15,000 - 15,999	4,350	48,000 - 49,999	12,750
16,000 - 16,999	4,600	50,000 - 51,999	13,250
17,000 - 17,999	4,850	52,000 - 53,999	13,750
18,000 - 18,999	5,100	54,000 - 55,999	14,250
19,000 - 19,999	5,350	56,000 - 57,999	14,750
20,000 - 20,999	5,600	58,000 - 59,999	15,250
21,000 - 21,999	5,850	-	

For vehicles having a fair market value in excess of \$59,999, the Annual Lease Value is equal to: $(.25 \times \text{automobile fair market value}) + \500 .

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**403(B) SALARY REDUCTION CONTRIBUTION ELIGIBILITY
NOTIFICATION**

I have been notified that I am eligible to participate in the Tax Exempt Employer 403(b) Salary Reduction Program. I have received a copy of the Summary Plan Description and Salary Reduction Agreement. Should I choose to participate I will complete a Salary Reduction Agreement form and return it to _____.

Name: _____

Date of Hire: _____

Signature: _____

Date: _____

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Worksheet 1. **Maximum Amount Contributable (MAC)**

Note. Use this worksheet to figure your MAC.

Part I. Limit on Annual Additions		
1	Enter your includible compensation for your most recent year of service	1 _____
2	Maximum · For 2014, enter \$52,000	2 _____
3	Enter the lesser of line 1 or line 2. This is your limit on annual additions Caution: If you had only nonelective contributions, skip Part II and enter the amount from line 3 on line 18.	3 _____
Part II. Limit on Elective Deferrals		
4	Maximum contribution · For 2014, enter \$17,500	4 _____
Note. If you have at least 15 years of service with a qualifying organization, complete lines 5 through 17. If not, enter zero (-0-) on line 16 and go to line 17.		
5	Amount per year of service	5 _____ \$5,000
6	Enter your years of service	6 _____
7	Multiply line 5 by line 6	7 _____
8	Enter the total of all elective deferrals for prior years made for you by qualifying organizations	8 _____
9	Subtract line 8 from line 7. If zero or less, enter zero (-0-)	9 _____
10	Maximum increase in limit for long service	10 _____ \$15,000
11	Enter the total of additional pre-tax elective deferrals made in prior years under 15 year rule	11 _____
12	Enter the aggregate amount of all designated Roth contributions for prior years under the 15 year rule	12 _____
13	Add line 11 and line 12	13 _____
14	Subtract line 13 from line 10	14 _____
15	Maximum additional contributions	15 _____ \$3,000
16	Enter the least of lines 9, 14, or 15. This is your increase in the limit for long service	16 _____
17	Add lines 4 and 16. This is your limit on elective deferrals	17 _____
Part III. Maximum Amount Contributable		
18	· If you had only nonelective contributions, enter the amount from line 3. This is your MAC. · If you had only elective deferrals, enter the lesser of lines 3 or 17. This is your MAC. · If you had both elective deferrals and nonelective contributions, enter the amount from line 3. This is your MAC. (Use the amount on line 17 to determine if you have excess elective deferrals as explained in chapter 7 of IRS Publication 571.)	18 _____

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Worksheet A. **Cost of Incidental Life Insurance**

Note. Use this worksheet to figure the cost of incidental life insurance included in your annuity contract. This amount will be used to figure includible compensation for your most recent year of service.

1	Enter the value of the contract (amount payable upon your death)	1	_____
2	Enter the cash value in the contract at the end of the year	2	_____
3	Subtract line 2 from line 1. This is the value of your current life insurance protection	3	_____
4	Enter your age on your birthday nearest the beginning of the policy year	4	_____
5	Enter the 1-year term premium for \$1,000 of life insurance based on your age (From Appendix D-1)	5	_____
6	Divide line 3 by \$1,000	6	_____
7	Multiply line 6 by line 5. This is the cost of your incidental life insurance	7	_____

Worksheet B. **Includible Compensation for Your Most Recent Year of Service¹**

Note. Use this worksheet to figure includible compensation for your most recent year of service.

1	Enter your includible wages from the employer maintaining your 403(b) account for your most recent year of service	1	_____
2	Enter elective deferrals excluded from your gross income for your most recent year of service ²	2	_____
3	Enter amounts contributed or deferred by your employer under a cafeteria plan for your most recent year of service	3	_____
4	Enter amounts contributed or deferred by your employer to your 457 account (a nonqualified plan of a state or local government or of a tax-exempt organization) for your most recent year of service	4	_____
5	Enter pre-tax contributions (employer's contributions made on your behalf according to an election) to a qualified transportation fringe benefit plan you received for your most recent year of service	5	_____
6	Enter your foreign earned income exclusion for your most recent year of service	6	_____
7	Add lines 1, 2, 3, 4, 5, and 6	7	_____
8	Enter the cost of incidental life insurance that is part of your annuity contract for your most recent year of service	8	_____
9	Enter compensation that was both : · Earned during your most recent year of service, and · Earned while your employer was not qualified to maintain a 403(b) plan	9	_____
10	Add lines 8 and 9	10	_____
11	Subtract line 10 from line 7. This is your includible compensation for your most recent year of service	11	_____

¹ Use estimated amounts if figuring includible compensation before the end of the year.

² Elective deferrals made to a designated Roth account are not excluded from your gross income and should not be included on this line.

Worksheet C. **Limit on Catch-Up Contributions**

Note. If you will be age 50 or older by the end of the year, use this worksheet to figure your limit on catch-up contributions

1	Maximum catch-up contributions	1	\$5,500
2	Enter your includible compensation for your most recent year of service	2	_____
3	Enter your elective deferrals	3	_____
4	Subtract line 3 from line 2	4	_____
5	Enter the lesser of line 1 or line 4. This is your limit on catch-up contributions	5	_____

**UNIFORM ONE-YEAR TERM PREMIUMS FOR \$1,000
LIFE INSURANCE PROTECTION**

AGE	COST	AGE	COST
15	0.38	57	5.20
16	0.52	58	5.66
17	0.57	59	6.06
18	0.59	60	6.51
19	0.61	61	7.11
20	0.62	62	7.96
21	0.62	63	9.08
22	0.64	64	10.41
23	0.66	65	11.90
24	0.68	66	13.51
25	0.71	67	15.20
26	0.73	68	16.92
27	0.76	69	18.70
28	0.80	70	20.62
29	0.83	71	22.72
30	0.87	72	25.07
31	0.90	73	27.57
32	0.93	74	30.18
33	0.96	75	33.05
34	0.98	76	36.33
35	0.99	77	40.17
36	1.01	78	44.33
37	1.04	79	49.23
38	1.06	80	54.56
39	1.07	81	60.51
40	1.10	82	66.74
41	1.13	83	73.07
42	1.20	84	80.35
43	1.29	85	88.76
44	1.40	86	99.16
45	1.53	87	110.40
46	1.67	88	121.85
47	1.83	89	133.40
48	1.98	90	144.30
49	2.13	91	155.80
50	2.30	92	168.75
51	2.52	93	186.44
52	2.81	94	206.70
53	3.20	95	228.35
54	3.65	96	250.01
55	4.15	97	265.09
56	4.68	98	270.11

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LIST OF 20 COMMON LAW FACTORS USED TO CLASSIFY WORKERS

The following list of common law factors with citations, adapted from Rev. Rul. 87-41, shows how the IRS views the 20 common law factors. The IRS has released worker classification training material that explains how agents should apply the common law control test. While these materials are useful in anticipating what IRS agents will look for in future employment tax audits, they are not to be used or cited as authority for settling or sustaining a technical position. Therefore, the IRS's common law guidelines as summarized in Rev. Rul. 87-41 (and set forth below) still control worker classification.

1. **Instructions.** A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions. See for example, Rev. Rul. 66-598, 1968-2 C.B. 464.
2. **Training.** Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular manner. See Rev. Rul. 70-630, 1970-2 C.B. 229.
3. **Integration.** Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control (i.e., when the success or continuation of a business depends to an appreciable degree upon the performance of the worker's services). See *United States v. Silk*, 331 U.S. 704 (1947).
4. **Services Rendered Personally.** If the services must be rendered personally, presumably the person for whom the services are performed is interested in the methods used to accomplish the work. See Rev. Rul. 55-695, 1955-2 C.B. 410.
5. **Hiring, Supervising, and Paying Assistants.** If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. Compare Rev. Rul. 63-115, 1963-1 C.B. 178, with Rev. Rul. 55-593, 1955-2 C.B. 610.
6. **Continuing Relationship.** A continuing relationship between the worker and the person or persons for whom the services are performed indicates an employer-employee relationship exists. See *United States v. Silk*.
7. **Set Hours of Work.** The establishment of set hours of work by the person or persons for whom the services are performed indicates control. See Rev. Rul. 73-591, 1973-2 C.B. 337.
8. **Full Time Required.** If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and by implication restrict the worker from doing other gainful work. See Rev. Rul. 56-694, 1956-2 C.B. 694.
9. **Doing Work on Employer's Premises.** If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker. Rev. Rul. 56-660, 1956-2 C.B. 693. Control over the place of work is indicated when the one for whom the services are performed can compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required. See Rev. Rul. 56-694.
10. **Order or Sequence Set.** If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own patterns of work. See Rev. Rul. 56-694.
11. **Oral or Written Reports.** A requirement that the worker submit regular reports to the person for whom the services are performed indicates a degree of control. See Rev. Rul. 70-309, 1970-1 C.B. 199, and Rev. Rul. 68-248, 1968-1 C.B. 431.
12. **Payment by Hour, Week, Month.** Payment by the hour, week, or month generally points to an employer-employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on a straight commission generally indicates the worker is an independent contractor. See Rev. Rul. 74-389, 1974-2 C.B. 330.
13. **Payment of Business and/or Traveling Expenses.** If the person or persons for whom the services are performed ordinarily pays the worker's business and/or traveling expenses, the worker is ordinarily an employee. See Rev. Rul. 55-144, 1955-1 C.B. 483.
14. **Furnishing of Tools and Materials.** That the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. See Rev. Rul. 71-524, 1971-2 C.B. 346.
15. **Significant Investment.** If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees, that factor tends to indicate the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed, and thus the existence of an employer-employee relationship. See Rev. Rul. 71-524.
16. **Realization of Profit or Loss.** A worker who can realize a profit or suffer a loss is generally an independent contractor, but the worker who cannot is an employee. See Rev. Rul. 70-309. The risk that a worker will not receive payment for his or her services, however, is common to both independent contractors and employees.
17. **Working for More Than One Firm at a Time.** The fact a worker performs more than de minimis services for unrelated persons or firms at the same time generally indicate the worker is an independent contractor. See Rev. Rul. 70-572, 1970-2 CB 221. However, a worker who performs services for more than one person may be an employee of each.
18. **Making Services Available to General Public.** The fact a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship. See Rev. Rul. 56-660.
19. **Right to Discharge.** The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An independent contractor cannot be fired as long as he or she meets the contract specifications. Rev. Rul. 75-41, 1975-1 C.B. 323.
20. **Right to Terminate.** A worker's right to end his or her relationship with the person for whom the services are performed at any time without incurring liability indicates an employer-employee relationship. See Rev. Rul. 70-3

**NEW DEVELOPMENTS, YEAR END UPDATE
AND 1040 CONSIDERATIONS
JANUARY 2015**

Maximum Federal Per Diem Rates (Effective October 1, 2014 – September 30, 2015)

Per Diem Locality			Computing Maximum Rate			
State	KeyCity	County and /or Other Defined Location	Effective Dates	Maximum Lodging Rate	M&IE Rate	Maximum Per Diem Rate
NY	Albany	Albany	All Year	\$111	\$61	\$172
	Binghamton, Oswego	Broome, Tioga	All Year	\$97	\$46	\$143
	Buffalo	Erie	All Year	\$108	\$56	\$164
	Floral Park, Garden City, Great Neck	Nassau	All Year	\$149	\$66	\$215
	Glens Falls	Warren	10/1-6/30	\$101	\$66	\$167
			7/1-8/31	\$159	\$66	\$225
			9/1-9/30	\$101	\$66	\$167
	Ithaca, Waterloo, Romulus	Tompkins, Seneca	All Year	\$115	\$46	\$161
	Kingston	Ulster	All Year	\$112	\$66	\$178
	Lake Placid	Essex	10/1-11/30	\$117	\$61	\$178
			12/1-2/28	\$129	\$61	\$190
			3/1-6/30	\$105	\$61	\$166
			7/1 – 8/31	\$166	\$61	\$227
			9/1 – 9/30	\$117	\$61	\$178
	Manhattan (includes the boroughs of Manhattan, Brooklyn, the Bronx, Queens, and Staten Island)	Bronx, Kings, New York, Queens, Richmond	10/1 – 12/31	\$304	\$71	\$375
			1/1 – 2/28	\$197	\$71	\$268
			3/1 – 6/30	\$268	\$71	\$339
			7/1 – 8/31	\$235	\$71	\$306
			9/1- 9/30	\$304	\$71	\$375
	Niagara Falls	Niagara	10/1 – 6/30	\$83	\$51	\$134
			7/1 – 8/30	\$108	\$51	\$159
			9/1- 9/30	\$83	\$51	\$134

**NEW DEVELOPMENTS, YEAR END UPDATE
AND 1040 CONSIDERATIONS
JANUARY 2015**

Maximum Federal Per Diem Rates (Effective October 1, 2014 – September 30, 2015)

Per Diem Locality			Computing Maximum Rate			
State	Key City	County and /or Other Defined Location	Effective Dates	Maximum Lodging Rate	M&IE Rate	Maximum Per Diem Rate
NY	Nyack, Palisades	Rockland	All Year	\$110	\$61	\$171
	Poughkeepsie	Dutchess	All Year	\$105	\$66	\$171
	Riverhead, Ronkonkoma, Melville	Suffolk	All Year	\$121	\$71	\$192
	Rochester	Monroe	All Year	\$105	\$51	\$156
	Saratoga Springs, Schenectady	Saratoga, Schenectady	10/1 – 6/30 7/1 – 8/31 9/1 – 9/30	\$116 \$178 \$116	\$56 \$56 \$56	\$172 \$234 \$172
	Syracuse, Oswego	Onondaga, Oswego	All Year	\$96	\$56	\$152
	Tarrytown, White Plains, New Rochelle	Westchester	All Year	\$145	\$71	\$216
	Troy	Rensselaer	All Year	\$102	\$51	\$153
	Watertown	Jefferson	All Year	\$96	\$56	\$152
	West Point	Orange	All Year	\$106	\$51	\$157
	Standard Rate	Applies for all locations without specified rates	All Year	\$83	\$46	\$129

Localities Eligible for \$259 (\$65 M&IE) Per Diem Amount Under the High-Low Substantiation Method (Effective October 1, 2014)

Per Diem Locality			Effective Date of \$259 Rate
State	Key City	County and/or Other Defined Location	
NY	Floral Park, Garden City, Great Neck	Nassau	All year
	Glens Falls	Warren	7/1 – 8/31
	Lake Placid	Essex	7/1 – 8/31
	Manhattan (includes the boroughs of Manhattan, Brooklyn, the Bronx, Queens, and Staten Island)	Bronx, Kings, New York, Queens, Richmond	All year
	Saratoga Springs, Schenectady	Saratoga, Schenectady	7/1 – 8/31
	Tarrytown, White Plains, New Rochelle	Westchester	All year