

**CLIENT NEWSLETTER  
PAYROLL AND PAYROLL TAXES-2013**

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It's that time of year once again when you have to deal with payroll changes.

These are highlights of some of the payroll tax changes for 2013. This memo is not intended to be all-inclusive. If you need additional details on any of these or other payroll matters, please contact us. **Please route this memo to your payroll bookkeeper.**

Check our Website [www.dhc-cpas.com](http://www.dhc-cpas.com) for changes during the year.

**MINIMUM WAGE**

The Federal wage and hour law is very complex and very industry specific, so you should consult with your attorney or go to <http://www.dol.gov/dol/topic/wages/minimumwage.htm> if you have questions about coverage for your business. The federal minimum wage is \$7.25 per hour effective July 24, 2009.

**FICA TAX RATE**

Effective January 1, 2013, the maximum amount of earnings subject to the Social Security tax (taxable maximum) will increase to \$113,700 from \$110,100. The tax rate for employers will remain at 7.65%; 6.2% for social security tax and 1.45% for Medicare tax. The tax rate for employees will increase to 7.65%; 6.2% for social security tax and 1.45% for Medicare tax.

**ADDITIONAL MEDICARE TAX WITHHOLDING**

Beginning in 2013 an employer must withhold additional Medicare tax at a rate of 0.9% from wages it pays to an individual in excess of \$200,000 in a calendar year, without regard to the individual's filing status or wages paid by another employer.

An individual may owe more than the amount withheld by the employer depending on filing status, wages and self-employment income. In that case, the individual should make estimated tax payments and/or request additional income tax withholding.

### **WITHHELD INCOME AND FICA TAX (FORM 941)**

Refer to the IRS website for Publication 15/Circular E (Rev. January 2013), which contains tables for withholding. The individual tax rates for 2013 are 10%, 15%, 25%, 28%, 33%, 35% and 39.6%. Below are the payroll tax deposit requirements for companies who file Form 941, Employer's Quarterly Return. Remember to use Publication 15 (Circular E), Employer's Tax Guide, For Use in 2013, for computing FICA and Federal Withholding payroll deductions.

Some small businesses may qualify to file Form 944, Employer's Annual Federal Tax Return instead of the quarterly tax return. See instructions for Form 944 for more information.

### **PAYROLL TAX DEPOSITS**

Since deposits are an important aspect of the tax collection procedures, a penalty is imposed for a failure to make timely deposits of employment taxes. The penalty is 2% of the amount of any underpayment of a deposit if the failure is for not more than 5 days; 5% if the failure is for 6 but not more than 15 days; 10% if the failure is for more than 15 days. In any case where the tax is not deposited by the earlier of 10 days after the date of the first delinquency notice or the day on which notice and demand for immediate payment is given, the penalty will be 15% of the underpayment. A penalty of 10% is applied to amounts subject to electronic deposit requirements but not deposited using EFTPS and for deposits made at unauthorized financial institutions, paid directly to the IRS, or paid with your tax return.

An underpayment is the excess of the amount of tax required to be deposited over the tax that was actually deposited.

- All deposits must be made using the Electronic Federal Tax Payment System (EFTPS).
- Payments must be scheduled by 8 p.m. ET the day before the due date to be received timely.
- There are two exceptions to these general rules. First, if you report less than a \$2,500 liability for the quarter, no deposits are required and the tax may be paid in full with a timely filed return. Second, if you are a monthly depositor and you are making a deposit shortfall payment. This shortfall payment can be greater than \$2,500 but cannot exceed the greater of \$100 or 2% of the amount of tax to be deposited. In other words, you need to deposit at least 98% of the tax due with timely deposits.
- To use EFTPS you must first enroll. To enroll, or for more information online, visit <https://www.eftps.gov/eftps/> or to receive an enrollment form, call EFTPS Customer Service for assistance at 1-800-555-4477. If you have questions about the rule, search on "Tax Topics 757" at the IRS Web site or call the IRS at 1-800-830-5215.

## **“NANNY TAX”**

New rules have simplified the reporting and payment of FICA taxes and withholding taxes for domestic employees. Employers can now file reports annually instead of quarterly and social security (FICA) and FUTA (if applicable) taxes are paid along with the employer's regular Form 1040.

These are the exemptions from the FICA tax for 2013:

- 1) You have to withhold and pay FICA taxes if your domestic employee earns cash wages of \$1,800 or more during the calendar year. If you reach the \$1,800 threshold, the entire wages (not just the excess) will be subject to FICA.
- 2) Certain employees under age 18, such as baby sitters and yard workers, are exempt unless household work is their principal occupation.

The rules for unemployment tax (FUTA) coverage are different than those mentioned above for FICA tax. FUTA taxes are due on all employees you have during the year if you pay a total of \$1,000 or more in cash wages to employees as a whole (not individually) in any calendar quarter this year or last year.

**If you have domestic help, call us. We'll help you sort through the rules and filing requirements.**

## **FEDERAL UNEMPLOYMENT TAX-FORM 940**

Periodic deposits for the FUTA tax may be necessary even though the Federal Unemployment Return, Form 940, is filed just once each year. Form 940-EZ no longer exists.

The FUTA tax rate is 0.6%. The tax applies to the first \$7,000 you pay to each employee as wages during the year. The \$7,000 is the federal wage base. CAUTION: If you are required to file electronically you must deposit FUTA taxes using EFTPS (see page 2).

## **LOUISIANA UNEMPLOYMENT TAX**

The 2013 wage base will remain at \$7,700. Your rate is included on a notice sent to you by the Louisiana Workforce Commission. Please send us a copy of this notice for our files. Don't forget to change the rate and the wage base in your computerized payroll program.

## **NEW EMPLOYEES - REPORTS**

### Federal W-4

You should have a Form W-4 in your file for each employee and these should be retained for at least four years, even if the employee terminates.

You can verify a social security number at [www.socialsecurity.gov/bsowelcome.htm](http://www.socialsecurity.gov/bsowelcome.htm) .

Louisiana L-4

Louisiana withholding laws require you to withhold Louisiana tax based on a withholding certificate, Form L-4, completed by the employee. This form should be obtained from the employee with the Federal Form W-4 and retained.

Form I-9

The Immigration and Naturalization Service (INS) requires you to complete a Form I-9 on each new employee. Contact INS at 1-800-375-5283 or [www.uscis.gov](http://www.uscis.gov) for forms and information.

Louisiana Department of Labor – Child Support Reporting

Employers are required to report the name, address, social security number, and occupation of all newly hired and rehired individuals to the Office of Family Support, Child Support Enforcement, within twenty (20) days of a person being hired. You may report all new hires via phone, fax, mail, or Internet at [www.la-newhire.com](http://www.la-newhire.com). Internet reporting is encouraged, as it is the only method of reporting that provides report confirmation.

**SOCIAL SECURITY BENEFITS**

The maximum amount of earned wages or self-employment income that social security recipients can earn in 2013 before their benefits will be reduced is as follows:

<u>Age</u>	<u>Limit Amount</u>	<u>Benefits Reduction</u>
62 until full retirement age (FRA)	\$15,120	\$1 For Every \$2 Over Limit
Year you reach your FRA	\$40,080	\$1 For Every \$3 Over Limit
But only counting earnings before the month you reach FRA		
Month you reach FRA	No limit	No reduction

For many years full retirement was age 65, now it ranges from 66 to 67 for people born between 1938 and 1960. Go to [www.ssa.gov](http://www.ssa.gov) to see what your full retirement age will be.

If you have retired at age 62 and have returned back to work, the Social Security Administration will withhold money until the limit is met, so you may go for months without benefits. If you return to work, call the Social Security administration.

**EMPLOYEE OR INDEPENDENT CONTRACTOR**

An "employee" is an individual who performs services subject to the control of the employer, both as to what and how it is to be done. In general, an individual who is subject to the control only as to the result of his work, and not the means, is an "independent contractor". An employer who improperly designates an employee as an independent contractor becomes liable for employment taxes, fines and penalties. For further information concerning your liability in classifying workers as independent contractors, please call us, or see the "20 Factors" memo in Appendix A.

## **FORMS 1099**

Payments of \$600 or more made by a trade or business receiving the performance of services by nonemployees are required to be reported on Form 1099-MISC, Statement for Recipients of Miscellaneous Income. This form is to be used to report nonemployee compensation that includes fees, commissions, prizes, awards or other forms of compensation for services rendered in a trade or business. Forms 1099-MISC do not need to be completed for payments made to a corporation, except in the case of medical and legal payments.

To prepare:

- Have your system set up to obtain vendor TINs and other information before issuing checks.
- Make sure you have the name that the vendor uses with the IRS (the trade name it gave you may differ from the one on its tax returns or you may be dealing with a division or subsidiary, but tax returns are filed under the parent's name). Use a form W-9 to capture this information.
- <http://www.irs.gov/pub/irs-pdf/fw9.pdf?portlet=3>

In addition to filing Forms 1099-MISC for nonemployees a separate form may need to be filed for two common transactions:

- 1) File Form 1099-MISC for rent paid from a corporation to the individual real estate owner;
- 2) If there are loans between a corporation and its shareholders or employees, a Form 1099-INT may need to be completed for payments of interest that exceed \$10 in a calendar year.

Most information returns are due to be sent to the recipient by January 31 and to the Internal Revenue Service by February 28 each year. There are significant penalties for failure to file on time.

The law places a burden on each company to determine what information returns should be filed and to file the returns on time. Please call if you want us to prepare information returns for you or call if you have questions.

## **TAXATION OF FRINGE BENEFITS**

Certain fringe benefits are subject to income and/or payroll taxes. These benefits include the use of employer vehicles by employees for personal or commuting use. These rules are very complex and require inclusion of the "fringe benefit" on the Form 941 and W-2. If you have employer-provided vehicles used by employees for personal or commuting (whether the employees are owners, officers, or regular employees), please contact us if you are not reporting this on the employee's W-2 forms.

The IRS is requiring additional information on the 2012 W-2 concerning fringe benefits and other amounts paid to employees. Additional information is required at box 11 through 14 of Form W-2. Be sure to read the instructions for these boxes.

## **MILEAGE RATE**

In lieu of actual, out-of-pocket expenses, the IRS allows you to deduct a standard mileage allowance:

	<u>2013</u>	<u>2012</u>
For all miles of business use	56.5 cents	55.5 cents
Medical or moving mileage	24 cents	23 cents
Charitable mileage	14 cents	14 cents

## **WEB SITES**

Daenen Henderson & Company	<a href="http://www.dhc-cpas.com">www.dhc-cpas.com</a>
Internal Revenue Service	<a href="http://www.irs.gov">www.irs.gov</a>
U.S. Department of Labor	<a href="http://www.dol.gov">http://www.dol.gov</a>
U.S. Citizenship & Immigration Svcs.	<a href="http://uscis.gov">http://uscis.gov</a>
Department of Social Services	<a href="http://www.dss.state.la.us">www.dss.state.la.us</a>
U.S. Social Security Administration	<a href="http://www.ssa.gov">www.ssa.gov</a>
Electronic Federal Tax Payment System	<a href="http://www.eftps.gov">www.eftps.gov</a>

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## APPENDIX A

### THE 20 FACTORS TEST

The 20 factors indicating whether an individual is an employee or independent contractor, set forth in [IRS Publication 937](#), Employment Taxes, and also referred to in [Rev. Rul. 87-41](#), 1987-1 C.B. 296, are as follows:

1. **INSTRUCTIONS.** An employee must comply with instructions about when, where, and how to work. Even if no instructions are given, the control factor is present if the employer has the right to control how the work results are achieved.
2. **TRAINING.** An employee may be trained to perform services in a particular manner. Independent contractors ordinarily use their own methods and receive no training from the purchasers of their services.
3. **INTEGRATION.** An employee's services are usually integrated into the business operations because the services are important to the success or continuation of the business. This shows that the employee is subject to direction and control.
4. **SERVICES RENDERED PERSONALLY.** An employee renders services personally. This shows that the employer is interested in the methods as well as the results.
5. **HIRING ASSISTANTS.** An employee works for an employer who hires, supervises, and pays workers. An independent contractor can hire, supervise, and pay assistants under a contract that requires him to provide materials and labor and to be responsible only for the results.
6. **CONTINUING RELATIONSHIP.** An employee generally has a continuing relationship with an employer. A continuing relationship may exist even if work is performed at recurring although irregular intervals.
7. **SET HOURS OF WORK.** An employee usually has set hours of work established by an employer. An independent contractor generally can set her own work hours.
8. **FULL-TIME REQUIRED.** An employee may be required to work or be available full-time. This indicates control by the employer. An independent contractor can work when and for whom he chooses.
9. **WORK DONE ON PREMISES.** An employee usually works on the premises of an employer or works on a route or at a location designated by an employer.

**OBSERVATION:** Factors 7, 8, and 9 may have become of less importance in view of computers and the Internet that allow workers to perform just as well, and may be even better, away from the workplace.

10. **ORDER OR SEQUENCE SET.** An employee may be required to perform services in the order or sequence set by an employer. This shows that the employee is subject to direction and control.
11. **REPORTS.** An employee may be required to submit reports to an employer. This shows that the employer maintains a degree of control.
12. **PAYMENTS.** An employee is generally paid by the hour, week, or month. An independent contractor is usually paid by the job or on a straight commission.
13. **EXPENSES.** An employee's business and travel expenses are generally paid by an employer. This shows that the employee is subject to regulation and control.
14. **TOOLS AND MATERIALS.** An employee is normally furnished significant tools, materials, and other equipment by an employer.
15. **INVESTMENT.** An independent contractor has a significant investment in the facilities she uses in performing services for someone else.
16. **PROFIT OR LOSS.** An independent contractor can make a profit or suffer a loss.
17. **WORKS FOR MORE THAN ONE PERSON OR FIRM.** An independent contractor is generally free to provide his services to two or more unrelated persons or firms at the same time.
18. **OFFERS SERVICES TO THE GENERAL PUBLIC.** An independent contractor makes his services available to the general public.
19. **RIGHT TO FIRE.** An employee can be fired by an employer. An independent contractor cannot be fired so long as he produces a result that meets the specifications of the contract.
20. **RIGHT TO QUIT.** An employee can quit her job at any time without incurring liability. An independent contractor usually agrees to complete a specific job and is responsible for its satisfactory completion or is legally obligated to make good for failure to complete it.