

December 1, 2008

Dear Client:

We are sending you this letter to advise you of some of the laws regarding payroll taxes for the year 2009 and to make you aware of additional payroll services that our office can provide. In the next few weeks you should be receiving the 2009 Employer's Tax Guides published by the Internal Revenue Service (IRS) and the California Employment Development Department (EDD). You will also receive the 2009 Notice of Contribution Rates from EDD. Please provide our office a copy of this document upon receipt, as it determines the tax rates assigned to your business for unemployment, employer training and state disability tax for 2009. If your federal payroll tax deposit requirements are changing for 2009, you will receive a notice from the IRS. It is very important that you provide our office a copy of this notice as well.

The following will be effective as of January 1, 2009:

- 1) California minimum wage will remain at \$8.00 per hour.
- 2) The Unemployment Insurance (UI) taxable wage limit for 2009 is \$7,000 per employee, per year. The Employment Development Dept. will mail to you the annual Notice of Contribution Rates and Statement of UI Reserve Account, specific to your company, for the calendar year 2009, effective January 1, 2009.
- 3) The Employment Training Tax (ETT) rate for 2009 is 0.1 percent (.001) of the first \$7,000 per employee, per year.
- 4) The State Disability Insurance (SDI) withholding rate for 2009 will increase from .8 percent to 1.1 percent. The SDI maximum taxable wage limit will increase from \$86,698 to \$90,669 per employee per year. The maximum contribution per employee will increase from \$693.58 to \$997.36 per year.  
Sole proprietors who are not on payroll may elect to be covered under the state disability insurance program. You must complete the EDD Application for Disability Insurance Elective Coverage form DE1378DI and meet the eligibility requirements set forth on the information pages included with the application. Forms may be printed from the EDD website [www.edd.ca.gov](http://www.edd.ca.gov) or by contacting our office.
- 5) FICA Taxes – The total tax rate remains at 7.65 percent to an increased wage base of \$106,800, then continues at 1.45 percent on all wages paid – no limit. FICA is composed of Social Security insurance at the rate of 6.2 percent to the wage base of \$106,800 for a maximum annual contribution per employee of \$6,621.60 and Medicare insurance at the rate of 1.45 percent on all wages paid.
- 6) FUTA – The tax is calculated at 0.8 percent of the first \$7,000.00 of each employee per year. The FUTA tax deposit threshold is \$500. FUTA taxes must be deposited by the last day of the month following the end of a quarter in which your accumulated liability is \$500.00 or more. Use coupon Form 8109 to make the 940 (FUTA) deposit, unless you deposit by electronic transfer.
- 7) FEDERAL and STATE Withholding Tax – Use the tax tables provided in the 2009 Federal Publication 15, Circular E, Employer's Tax Guide and the 2009 California Employer's Guide to determine payroll tax withholding beginning January 1, 2009.

Please note that if our office processes your payroll, we will require an updated W-4 and DE-4 to be completed by each of your employees. If you process your own payroll, we recommend that you have your employees complete new forms each year to update the withholding information. Due to the complexity of the tax laws, it is necessary in many cases to claim a different number of exemptions for federal and state purposes. Also note that exempt employees **must** file a new Form W-4 each year if claiming exemption from income tax withholding, as the prior year form expires on February 16. Please contact our office if you need current forms.

#### 8) EARNED INCOME CREDIT (EIC)

California employers must notify all employees that they may be eligible for the Earned Income Tax Credit (EIC) within one week of providing the annual wage summary (Form W-2) to the employee. Employers must notify employees with IRS Notice 797 and Form W-5 by either handing directly to the employee or mailing to the employee's last known address. Our office will provide payroll clients a copy of each with the annual payroll reports.

#### 9) FEDERAL PAYROLL TAX DEPOSIT REQUIREMENTS FOR 2009:

Employers are required to make their Federal Employment Tax deposits following a MONTHLY or SEMIWEEKLY deposit schedule. The IRS will notify you if there is a change from the prior year deposit requirements. You must provide our office with a copy of your most recent notification. However, you are responsible to determine the deposit schedule that applies to you. Also, if our office prepares your payroll tax deposits, please bring in the preprinted tax deposit coupons provided each year by the government agencies.

##### MONTHLY DEPOSITS:

Your deposits for any given month are DUE on or before the 15<sup>th</sup> day of the following month. If the 15<sup>th</sup> falls on a Saturday, Sunday or federal banking holiday, the deposit is due the next business day. Complete coupon Form 8109 to make your 941 deposits and use a No. 2 lead pencil to prepare coupon.

##### SEMIWEEKLY DEPOSITS:

The day your semiweekly deposit is due depends on your payday. If you pay wages on a WEDNESDAY, THURSDAY, OR FRIDAY the deposit is due by the following WEDNESDAY. If you pay wages on a SATURDAY, SUNDAY, MONDAY, OR TUESDAY the deposit is due on the following FRIDAY. Our office can provide you with a 2009 tax deposit calendar for semiweekly depositors.

##### NEXT-DAY DEPOSIT:

If you accumulate \$100,000 or more of taxes on any day during a deposit period, you must deposit the tax by the next banking day, whether you are a monthly or semiweekly schedule depositor. If you are a monthly schedule depositor and are required to make a next-day deposit, you become a semiweekly schedule depositor on the next day and remain so for the rest of the calendar year and the following calendar year.

#### 10) ELECTRONIC FEDERAL TAX PAYMENT SYSTEM (EFTPS)

The threshold requiring the use of EFTPS is \$200,000. The regulation for the \$200,000 threshold applies to the total federal tax deposits made in the previous calendar year. Businesses that exceed the \$200,000 threshold must continue to use EFTPS in all later years.

EFTPS was developed to enable taxpayers to pay their taxes electronically. The system may be accessed by telephone or on the Internet. There is no charge from EFTPS for this service, however you should check with your financial institution to see if any bank charges apply to this type of transaction. New businesses are automatically enrolled in EFTPS when they apply for their Employer Identification Number (EIN).

A taxpayer is subject to a 10% penalty when law requires EFTPS and the taxpayer fails to remit by Electronic Federal

Tax Payment System. If you are required to use EFTPS for payment, you must use EFTPS for other business taxes, i.e. corporate income taxes, excise taxes and FUTA. If a taxpayer elects to pay through EFTPS, but is not required to by law, it is allowable to pay with an 8109 coupon at the bank when necessary.

Detailed information regarding EFTPS is available online at [www.eftps.gov](http://www.eftps.gov). Businesses may enroll in EFTPS-Direct at this website and make tax deposits once the application has been processed. Federal tax deposits may be submitted and warehoused up to 120 days prior to the deposit due date. Payment will be made on the date specified by the depositor.

A business that is not required to use EFTPS may voluntarily enroll in the EFTPS program. If you do not have Internet access, you may call 1-800-945-8400 or 1-800-555-4477 to receive the enrollment form or for customer service.

Complete enrollment form 9779 and return to the address on the form. The Internal Revenue Service will mail back your enrollment confirmation, which you will take to your bank. Your EFTPS options are ACH credit or ACH debit and must be indicated on your enrollment form. Both payment options allow for payment by telephone.

ACH Credit – Instruct your bank to withdraw funds from your account for payment to the Government’s account. Check with your financial institution to verify that they can originate your EFTPS tax payments and that you are eligible to use this service. Also check if there is a charge from the bank for processing this type of transaction.

ACH Debit – Instruct Treasury Financial Agent to have your bank withdraw funds from your bank account for payment to the Government’s account.

#### 11) STATE PAYROLL TAX DEPOSIT REQUIREMENTS FOR 2009:

State deposit due dates are generally the same as Federal deposit due date requirements.

##### SEMIWEEKLY DEPOSITS:

You will be required to make California semiweekly SDI and PIT (State Withholding) deposits if you are required to make Federal semiweekly deposits and you accumulate more than \$400.00 in PIT during one or more payroll periods. Pay date on a WEDNESDAY, THURSDAY, OR FRIDAY, the deposit is due the following WEDNESDAY. Pay date on a SATURDAY, SUNDAY, MONDAY, OR TUESDAY, the deposit is due the following FRIDAY.

##### MONTHLY DEPOSITS:

You will be required to make monthly SDI and PIT (State Withholding) deposits to EDD if you are required to make Federal Monthly deposits and you accumulate more than \$350.00 in PIT during one or more months of a quarter. Monthly deposits are required to be made by the 15<sup>th</sup> day of the following month.

##### QUARTERLY DEPOSITS:

You are required to deposit all UI, ETT, SDI, and PIT by the due date for each quarter (the last day of the month following the end of the quarter). If accumulated PIT is \$350.00 or more, the PIT and SDI are due by the 15<sup>th</sup> of the following month.

Please complete your preprinted DE-88 coupon and use the envelopes provided by EDD to mail your deposit by the due date. Use black ink or machine print to prepare your coupon. EDD uses the postmark date to determine timeliness of non-EFT tax payments.

#### 12) ELECTRONIC FUNDS TRANSFER – CALIFORNIA REQUIREMENTS

Mandatory Electronic Funds Transfer (EFT) participation is required when:

1. Employer's average tax deposit of SDI & PIT exceeds \$20,000.00 during the prior fiscal year (July 1 to June 30). First time mandatory EFT filers are notified by October 31, prior to the year of mandatory participation.
2. Employers may voluntarily enroll in the EFT program for convenience.

### 13) BE AWARE – PENALTIES!!

Penalties will be assessed for late taxes, under-deposited taxes, and late employer tax returns. The penalties vary and are outlined in your Federal Employer's Tax Guide and in your California Employer's Tax Guide.

### 14) HIRING NEW EMPLOYEES

Federal law requires all employers to verify that each new employee is eligible to work in the United States. A U.S. Citizenship and Immigration Services Form I-9 must be completed and kept on file by the employer for each new employee. Federal law also requires new employees be reported to the designated state's new employee registry.

By California law, all employers are required to report the hiring or rehiring of all workers within 20 days of hire to the EDD's California New Employee Registry. An individual is considered a rehire if the employer/employee relationship has ended and the returning individual is required to submit a W-4 form to the employer. The EDD may assess a penalty for each failure to report a new hire.

In the report, employers must include:

- (1) The employee's full name, address and social security number;
- (2) The employer's name, address, federal and state identification number; and
- (3) The date the employee started work (CUIC Sec. 1088.5).

You may use Form DE-34, Report of New Employee(s), or send a copy of the employee's Form W-4, Employee(s) Withholding Allowance Certificate, to the EDD. If you use the employee's Form W-4, you must add the employee's date of hire and the employer's state identification number. Filing Form DE 6, Quarterly Wage Report, does not meet the reporting requirements.

Mail Form(s) DE 34 or Form(s) W-4 to: Employment Development Dept.  
P.O. Box 997016, MIC 23  
West Sacramento, CA 95799-7016

Or fax the forms to the EDD at: (916) 319-4400

If our office is filing this report for you, be certain to provide all required information within 20 days of hire.

### 14) OVERTIME PAY

Employers are required to pay non-union employees (who are not working an alternative work week schedule) at least time and one half pay for:

- a) Hours worked in excess of 8 hours in one day.
- b) Hours worked in excess of 40 hours in one workweek.
- c) The first 8 hours worked on the seventh day of work in a given workweek.

In addition employers must pay employees at least double time for any hours worked in excess of 12 hours in one day and hours worked in excess of 8 hours on any seventh day of a workweek.

### 15) CALIFORNIA INDEPENDENT CONTRACTOR REPORTING LAW

Note the reporting requirements regarding Independent Contractors, as penalties may be assessed for failure to report or late reporting. Each year businesses must report independent contractors within 20 days of making payments of or entering into contracts of \$600 or more within that calendar year. It is the client's responsibility to complete and file form DE-542 as soon as \$600 or more has been paid to a service provider. Contact our office for more information or

if blank forms are needed.

Be aware that businesses must withhold California tax at a rate of 7% for payments of more than \$1,500 to any nonresident independent contractor for services provided inside California during a calendar year.

The IRS is on the warpath against firms that misclassify workers. It has new weapons for tracking down firms that violate the rules used to determine whether workers are really employees or independent contractors.

The Result: An increase in audits in a few months after IRS generates more leads.

Take a look at what the Revenue Service now has in its arsenal: More help from states. The IRS has signed up most of the states to share payroll tax exam data. Thousands more audit referrals will result.

Revved up document matching programs to pinpoint audit leads and lessen chances for no-change examinations. An electronic matching system, for example, enables the IRS to spot businesses issuing 1099 forms with payments of \$25,000.00 or more to at least five workers who have no other sources of income.

And audit leads from workers. Taxpayers can now file Form 8919 along with their tax returns to tell the Service that they believe their employer incorrectly pegged them as contractors. A flood of these forms is likely to come because filing the 8919 allows an individual to avoid paying self-employment tax. \_

## 16) INTERNET ACCESS

For more information regarding IRS and EDD reporting and filing requirements, visit the following Internet websites:

California Department of Industrial Relations: [www.dir.ca.gov](http://www.dir.ca.gov)

California Employment Development Department: [www.edd.ca.gov](http://www.edd.ca.gov)

Internal Revenue Service: [www.irs.gov](http://www.irs.gov)

Electronic Funds Transfer Payment System: [www.eftps.gov](http://www.eftps.gov)

## DIRECT DEPOSIT

Our office offers Direct Deposit payroll processing in addition to our other payroll services. Your employee's paycheck can be electronically credited directly to their bank account at any financial institution. This process will eliminate the need for signing checks, stop payment fees for lost or stolen paychecks, and time spent picking up the payroll. Please contact our office if you are interested in this service. One of our staff members will discuss the process and answer any questions or concerns you might have. It will be necessary for you and your employees to complete application forms to authorize this service.

## ELECTRONIC PAYROLL TAX DEPOSIT PROCESSING

Our office can perform the task of processing your payroll tax deposits through the EFTPS (federal tax deposit) and EFT (state tax deposit) systems. The payroll tax deposit information can be transmitted in advance and electronically debited from your account on the date the deposit is due. Please contact our office if you are interested in this service.

## RETIREMENT PLAN CONTRIBUTIONS FOR 2009

For those employers with retirement plans, the following maximum contributions will be in effect for 2009.

### **IRA's ( Regular and Roth)**

Up to age 50 the maximum contribution will be \$5,000; age 50 and over may contribute \$6,000

### **401(k); 403(b); 457 Plans**

Up to age 50 the maximum employee contribution will be \$16,500; age 50 and over may contribute \$22,000

### **Simple IRA's**

Up to age 50 the maximum deferral will be \$11,500; age 50 and over may defer \$14,000

**Defined Contribution Plans**

Employer Profit sharing / money purchase plans may contribute up to \$49,000; SEP IRA plans may contribute up to \$49,000

**Additional plans such as Roth 401(k), Single Employee 401(k) and others are available. Please contact our office for more information.**

Sincerely,

Robert C. Davis, C.P.A.  
RCD/RL/rl