

JMCPA MONTHLY MESSENGER

The Official Newsletter of Josh Mauer CPA



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LET'S TALK HOLIDAY PAY

- Under the Fair Labor Standards Act (FLSA), holiday pay for hourly and non-exempt salary employees is not required and is a matter of agreement between employer and employee. However, holiday pay *is* required for exempt salary employees.

For the distinction between exempt and non-exempt salary employees, please see page 2.

SALARIED EMPLOYEES: EXEMPT VS. NON-EXEMPT

What is an exempt employee?

- An exempt salary employee regularly receives each pay period on a weekly, or less frequent bases, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of work performed.
- Subject to the following list of exceptions below, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked.
- Exempt employees need not be paid for any workweek in which they perform no work.
- An employee is not paid on a salary basis if deductions from the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

If any deductions outside of the following list are made, the employee *is not* exempt and must be paid for all overtime hours according to FLSA.

Acceptable pay deductions for exempt employees:

1. Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full-day absences. **However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only one full-day absence.**

2. Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) **if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability.** The employer is not required to pay any portion of the employee's salary for full-day absences for which the employee receives compensation under the plan, policy or practice. Deductions for such full-day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder.

Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of one or more full days if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law.

SALARIED EMPLOYEES: EXEMPT VS. NON-EXEMPT (CONT.)

3. While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption.

4. Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries, and coal mines.

5. Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules. **Such suspensions must be imposed pursuant to a written policy applicable to all employees.**

Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a generally applicable written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a generally applicable written policy prohibiting workplace violence.

6. An employer is not required to pay the full salary in the initial or terminal week of employment. **Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment.** In such weeks, the payment of an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed.

7. An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. Rather, when an exempt employee takes unpaid leave under the Family and Medical Leave Act, an employer may pay a proportionate part of the full salary for time actually worked.

For example, if an employee who normally works 40 hours per week uses four hours of unpaid leave under the Family and Medical Leave Act, the employer could deduct 10 percent of the employee's normal salary that week.

When calculating the amount of a deduction from pay allowed from the list above, the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules under item #4 from the list above may be made in any amount.

The above information is included in the Code of Federal Regulations (CFR) 2010, Title 29, Volume 3, Section 541-602. If you have any questions in regard to salary employees and their exemption status, please feel free to email Maren at maren@joshmauercpa.com.

5 POWERFUL BUSINESS TAX DEDUCTIONS TO IMPLEMENT BEFORE THE END OF 2019

Dear Client,

The purpose of this letter is to get the IRS to owe you money. Of course, the IRS is not likely to cut you a check for this money (although in the right circumstances, that will happen), but you'll realize the cash when you pay less in taxes. Here are five powerful business tax deduction strategies that you can easily understand and implement before the end of 2019:



Courtesy of bffcourse.com.

1. Prepay Expenses Using the IRS Safe Harbor

You just have to thank the IRS for its tax-deduction safe harbors. IRS regulations contain a safe harbor rule that allows cash-basis taxpayers to prepay and deduct qualifying expenses up to 12 months in advance without challenge, adjustment, or change by the IRS. Under this safe harbor, your 2019 prepayments cannot go into 2021. This makes sense because you can prepay only 12 months of qualifying expenses under the safe-harbor rule. For a cash-basis taxpayer, qualifying expenses include lease payments on business vehicles, rent payments on offices and machinery, and business and malpractice insurance premiums.

Example. You pay \$3,000 a month in rent and would like a \$36,000 deduction this year. So on Tuesday, December 31, 2019, you mail a rent check for \$36,000 to cover all of your 2020 rent. Your landlord does not receive the payment in the mail until Thursday, January 2, 2020. Here are the results:

- You deduct \$36,000 in 2019 (the year you paid the money).
- The landlord reports \$36,000 in 2020 (the year he received the money).

You get what you want—the deduction this year. The landlord gets what he wants—next year's entire rent in advance, eliminating any collection problems while keeping the rent taxable in the year he expects it to be taxable. Don't surprise your landlord: if he had received the \$36,000 of rent paid in advance in 2019, he would have had to pay taxes on the rent money in tax year 2019.

2. Stop Billing Customers, Clients, and Patients

Here is one rock-solid, time-tested, easy strategy to reduce your taxable income for this year: stop billing your customers, clients, and patients until after December 31, 2019. (We assume here that you or your corporation is on a cash basis and operates on the calendar year.) Customers, clients, patients, and insurance companies generally don't pay until billed. Not billing customers and patients is a time-tested tax-planning strategy that business owners have used successfully for years.

Example. Jim Schafback, a dentist, usually bills his patients and the insurance companies at the end of each week; however, in December, he sends no bills. Instead, he gathers up those bills and mails them the first week of January. Presto! He just postponed paying taxes on his December 2019 income by moving that income to 2020.

5 POWERFUL BUSINESS TAX DEDUCTIONS TO IMPLEMENT BEFORE THE END OF 2019 (CONT.)

3. Buy Office Equipment

With bonus depreciation now at 100 percent along with increased limits for Section 179 expensing, buy your equipment or machinery and place it in service before December 31, and get a deduction for 100 percent of the cost in 2019. Qualifying bonus depreciation and Section 179 purchases include new and used personal property such as machinery, equipment, computers, desks, chairs, and other furniture (and certain qualifying vehicles).

4. Use Your Credit Cards

If you are a single-member LLC or sole proprietor filing Schedule C for your business, the day you charge a purchase to your business or personal credit card is the day you deduct the expense. Therefore, as a Schedule C taxpayer, you should consider using your credit card for last-minute purchases of office supplies and other business necessities.

If you operate your business as a corporation, and if the corporation has a credit card in the corporate name, the same rule applies: the date of charge is the date of the deduction for the corporation.

If you operate your business as a corporation and you are the personal owner of the credit card, the corporation must reimburse you if you want the corporation to realize the tax deduction, and that happens on the date of reimbursement. Thus, submit your expense report and have your corporation make its reimbursements to you before midnight on December 31.

5. Don't Assume You Are Taking Too Many Deductions

If your business deductions exceed your business income, you have a tax loss for the year. With a few modifications to the loss, tax law calls this a "net operating loss," or NOL. If you are just starting your business, you could very possibly have an NOL. You could have a loss year even with an ongoing, successful business.

You used to be able to carry back your NOL two years and get immediate tax refunds from prior years; however, the Tax Cuts and Jobs Act eliminated this provision. Now, you can only carry your NOL forward and it can only offset up to 80 percent of your taxable income in any one future year.

What does this all mean? You should never stop documenting your deductions, and you should always claim all your rightful deductions. We have spoken with far too many business owners, especially new owners, who don't claim all their deductions when those deductions would produce a tax loss. I trust that you found the five ideas above worthwhile. If you would like to discuss any of them, please book your appointment online or call into the office. Feel free to email any questions too at josh@joshmauercpa.com.

Sincerely,
Josh Mauer, CPA