SPRING 2004

Quill

NEWSLETTER

Table of Contents

Business Mileage
Per Diem Rate Updates.......1

Employer Reminder
Display Labor Posters.........1

Importance of Complying
with Unclaimed Property
Laws...2

Maine's Non-Conformity
to Legislative Changes &
its Hidden Costs..................2

Qualified Educational
Assistance Programs...........3

Promotions........................4

Editor: Angela R. Hayden

Runyon
Kersteen
Ouellette

Certified Public Accountants
and Business Consultants

Business Mileage Per Diem Rate Updates

For businesses that deduct automobile costs, the IRS has increased the optional standard mileage rate to 37.5 cents per mile for 2004. This is up from the previous 36 cents. The IRS has also indicated that to help reduce record-keeping burdens, taxpayers who use no more than four vehicles for business purposes at the same time may use the standard mileage rate starting in 2004.

The 14 cents per mile rate remains unchanged in 2004 when the use of a vehicle is for services to a charitable organization. For computing deductible moving expenses or medical expenses, the same rate applies, up from 12 cents per mile.

The IRS also updated its per diem rules, under which the amount of necessary and ordinary business expenses of an employee including lodging, meal, and incidental expenses incurred while traveling away from home will be deemed substantiated when a payor provides a daily allowance under an arrangement to pay for the expenses. This change generally applies to allowances paid on or after November 1, 2003.

Some 2004 Cost-of-Living Adjustments

- Social Security – The Social Security wage base rose from $87,000 to $87,900. The rates remain unchanged.
- Retirement Plans – The maximum compensation limit rose from $200,000 to $205,000 The defined benefit limit rose from $160,000 to $165,000. The limit on the exclusion for elective deferrals for 401 (k)s, 403 (b)s , and SEPs went to $13,000, up from $12,000. The defined contribution limit under Section 415(c)(1)(A) increased from $40,000 to $41,000. The Section 414(q)(1)(B) compensation amount used in identifying highly compensated employees remains at $90,000.
- Catch-Up Contributions – An increase mandated by statute (which is the maximum amount that individuals over age 50 can contribute to defined contribution plans as catch-up contributions) increases from $2,000 to $3,000.
- Nanny Tax – The Nanny tax threshold for triggering FICA tax responsibility remains at the same level of $1,400.

Employer Reminder Display Labor Posters

The Maine Department of Labor has reminded Maine employers that they must display certain labor posters where they are visible to all employees. The required posters are available from state government agencies free of charge. Please note that the department has made revisions to some.

The general labor laws are now covered on four letter size posters instead of three legal size posters. A program of the Maine Department of Economic and Community Development called Business Answers can send the posters free of charge upon request. Call 800-872-3838 or 624-9818, or TTY 287-2656.

For a list of required posters and free downloads, visit the Web site:
www.state.me.us/labor/bls/blsmain.htm.

Importance of Complying with Unclaimed Property Laws

By Jaimee Watts, Senior Accountant

In today's economic times when many states are struggling to avoid budget deficits, while at the same time avoiding tax increases, unclaimed property is being seen as an alternative non-tax revenue source. To access this revenue, more and more states are conducting unclaimed property audits of organizations that hold such assets. As a result, management needs to be aware of certain financial reporting issues associated with unclaimed property.

What is unclaimed property?

Unclaimed property is defined as a liability a company owes to an individual or entity when a debt or obligation remains outstanding after a specified period of time. Common types of unclaimed property are un-cashed payroll checks or dividend checks. An un-cashed payroll check becomes unclaimed property after it has been outstanding for a specified period of time. In the State of Maine, that period is three years. Before reporting any unclaimed property to the respective state, though, an organization must exhaust all options in locating the owner of the unclaimed property through a process of due diligence.

Does our Organization have any unclaimed property?

Just because an outstanding check is never cashed, does not relieve an organization of the original liability. The obligation needs to remain on the books until the property is claimed; removing the liability may cause the financial statements of the organization to be misleading.

Additionally, given the long-term nature of unclaimed property, many organizations assume that if they don't have the historical records to calculate an unclaimed property amount, than that means they don't have any. That's not necessarily true. If a state selects an organization for examination and historical records are not available, the examiners can use estimation techniques to arrive at a number. Estimates are not a substitute for recognizing an actual liability, but if an organization is not expecting such a liability for lack of records, a state assessment could be an unexpected hit. To avoid any such surprises, organizations should retain unclaimed property records, with appropriate backup, for a period of 10 years (on average). There is no statute of limitations on unclaimed property.

Non-compliance with unclaimed property laws

Organizations that fail to comply with state unclaimed property laws increase their likelihood of receiving an audit. States can assess failure to file penalties of up to 25% of the unclaimed property assessment and can impose compound interest charges of 10% to 15% of the assessment. Depending on how many years an unclaimed property audit goes, the assessment and related penalties could be quite substantial.

The best way to avoid an unclaimed property audit and any related assessments or penalties, is to understand the unclaimed property laws and to file your report timely. In the State of Maine, unclaimed property reports are generally due by November 1st.

Should you have any specific questions about the State of Maine's unclaimed property laws you may contact the State Treasurer's

Maine's Non-Conformity to Legislative Changes and its Hidden Costs

By Amy-Jo Brown, In-Charge Accountant

Over the past few years important federal tax legislation was passed, mainly the Jobs and Growth Tax Relief Reconciliation Act of 2003 and Job Creation and Worker Assistance Act of 2002. As a result of these acts, many businesses and individuals will see immediate reductions in their federal tax liabilities. The State of Maine and many other states have not adopted certain changes put forth in this federal tax legislation. As a result, some individuals and businesses will see little change while others will experience significant short term reduction in taxes. Although there are many prongs to the non-conformity issue, the focus of this article is in the area of Maine's departure from federal depreciation rules.

Depreciation, the ability to expense the cost of capital assets over time, affects individuals, partnerships, LLC's, and corporations who utilize real and personal property in their businesses. The ability to immediately expense certain qualifying business property placed in service during the year has been around for years and the allowance has been slowly increasing on a yearly basis. With the 2003 Act, for tax years beginning after 2002 and before 2006, the section 179 expensing election dramatically increases from $25,000 to $100,000 for tax returns filed with the IRS. For these years, the act expands the definition of qualified property to include off-the-shelf computer software and certain leasehold improvements. Maine and many other states are not recognizing this increase. For Maine tax purposes, any excess expensing over the $25,000/year has to be added back when computing Maine taxable income. These add-backs will be recovered for Maine tax purposes in future years.

Similar non-conformity follows the generous federal deductions for first year bonus depreciation on qualified new property. The 2002 act provided for first year bonus depreciation of 30% of the cost of qualified property. The 2003 act increased this rate to 50% for qualified property placed in service after May 5, 2003, but before January 1, 2005. Taxpayers can take the 50% bonus depreciation, elect the 30% bonus depreciation, or elect out of any bonus at all. Again, Maine will not be conforming to this change either. For tax years beginning in 2002 the net effect of the bonus depreciation must be added back when computing state income tax.

The problem facing Maine taxpayers is the fact that the state has adopted different methods for recapturing the non-conformity amounts between the 2002 and 2003 Acts. Although, over time, the total amount deducted for federal and Maine purposes will eventually be the same, the administrative costs of tracking these differences can be cumbersome. Bottom line, some of these changes will have to be tracked for 23 years.

Maine's non-conformity to these federal tax changes, results in depreciation being calculated separately for state income tax purposes. Most nationally available tax software doesn't keep track of these add-backs and with some 35+ states going their own way, there is little likelihood that any will be developed. Plus, given the relatively small number of businesses in Maine, our state would be one of the last to have any special software developed for it. As a result, taxpayers and their accountants have a very complex set of self-prepared calculations to keep

track of each business's add-back, which results in an administrative tax on their resources. There is some relief for the smallest of businesses that add less than $25,000 of qualified assets, and elect to expense them all in the first year and for those that elect out of the federal acceleration. The time value of money should be weighed against the administrative costs when considering the acceleration of federal deductions. Keep in mind these are not new deductions, just acceleration of existing ones. If you have any questions on how these rules effect you, give us a call.

Qualified Educational Assistance Programs

by Joanne Dionne, Senior Accountant and Steve Bruning, Manager

Attention Employers

Do you want to develop more highly skilled employees and increase morale? Consider providing employee educational benefits using any of the following educational programs:

- Qualified Educational Assistance Programs
- Job Related Educational Assistance
- Qualified Tuition reductions (for employer educational institutions)
- Qualified Scholarships

Qualified Educational Assistance Programs (EAP)

Both job related and non-job related education may qualify under a qualified EAP. Employers can annually provide each employee with up to **$5,250** of **pre-tax** educational assistance (for both nongraduate and graduate courses) *if* the employer establishes a formal educational assistance program that meets the requirements of Internal Revenue Code (IRC) Sec.127.

To qualify under IRC Sec. 127, the educational assistance program must be in writing and must meet the following conditions:

1. not discriminate in favor of highly compensated employees or their dependents,
2. not pay more than five percent of the program benefits to shareholders or owners (or their spouses or dependents), who own more than 5% of the entity
3. provide educational assistance exclusively to employees
4. not provide eligible employees with a choice between educational assistance and taxable compensation
5. not be required to be funded
6. the employer must provide reasonable notice of the availability and terms of the program to all eligible employees.

The first $5,250 of qualified educational assistance provided under a Qualified EAP during the calendar year cannot be included in the employees' gross income and therefore is exempt from federal income and employment tax withholdings.

If more than $5,250 of educational assistance is provided to an employee in a program year and the educational assistance is provided for courses that are job related, the cost of the educational assistance in excess of the $5,250 income exclusion cap may qualify as a working condition fringe. (See job related educational assistance below).

Educational assistance includes but is not limited to tuition, fees, and similar payments, books supplies and equipment. It does not include amounts paid for meals, lodging, or transportation incident to education. The plan may not discriminate in favor of highly compensated individuals.

A qualified EAP cannot offer a choice between educational assistance and taxable compensation. Accordingly, EAP's are expressly prohibited from being included in a cafeteria plan. Most EAP's are unfunded and therefore not subject to the Department of Labor (DOL's) reporting or disclosure requirements. EAP's are not required to file Form 5500 for IRS or DOL purposes as the IRS has suspended all filing requirements for fringe benefit plans.

Education is not limited to courses that are job related or part of a degree program. Benefits provided by an employer will be allowed, even if they qualify a person for a new position/ occupations as long as they are provided under an EAP.

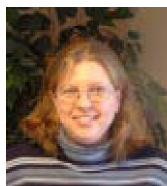
Job Related Educational Assistance

Job-related education may be furnished directly by the employer, either alone or in conjunction with other employers, or through a third party such as an educational institution or seminar organization. Employer payments or reimbursements for job related educational expenses are excluded from the employee's income as a working condition fringe. The exclusion is available for any form of educational instruction or training that improves or develops the job related capabilities of the individual and is otherwise deductible as a work condition fringe. Unlike under a qualified EAP, the education must be related to the employees' current employment in order to be excluded from the employees' taxable income.

A working condition fringe is defined as property or service provided to an employee that meets all the three of the following requirements; (1) an employee who had personally incurred the cost could have deducted the property or service as a trade or business expense or as a depreciable asset; (2) the employee's use of the property or service is substantiated by adequate records or sufficient evidence corroborating the employee's own statement; and (3) the employees' use of the property or service is related only to the employer's trade or business, or the employee's trade or business of being an employee of the employer (i.e. it is not related to some other trade or business of the employee).

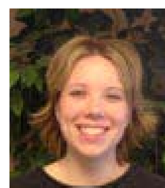
In summary, a qualified EAP allows an employer to reimburse employees for educational expenses whether the education is job-related or not and the reimbursements are not taxable to the employee. Without such a plan in place, reimbursements for job-related education will not be taxable to the employee, but any reimbursements for education that is not job-related will be treated as additional compensation to the employee subject to income and employment taxes.

Congratulations go out to the following staff members on their promotions!


Jennifer Giles
Staff Accountant

Angela Matson
Staff Accountant

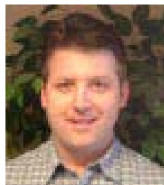
Amy-Jo Brown
In-Charge Accountant


Amy Rossignol
Senior Accountant

Chris Stevenson
Senior

Jaimee Watts
Senior Accountant

Peter Way
Supervisor


Rob Neal
Supervisor

Jennifer McKenney
Manager

Don Gaudet
Senior Manager

Member of

Sponsor of

www.rko-cpas.com

SOUTH PORTLAND
20 Long Creek Drive
South Portland, Maine 04106
(800) 486-1784
(207) 773-2986

WATERVILLE
30 Elm Street
Waterville, Maine 04901
(800) 639-2160
(207) 877-9397