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Bill Gates, Microsoft Founder

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Withdrawing Money from an S Corporation

By Mary L. Shetler, CPA, CFE, Senior Manager and Maria A. Dojka, CPA, Manager

There are two ways a shareholder can take earnings out of an S corporation; as compensation, or as shareholder distributions. An S corporation shareholder has an advantage over an LLC member or sole proprietor as the shareholder’s percentage of corporation net income is not considered self-employment earnings and, therefore, not subject to self-employment taxes on their personal return. However, the shareholder does not escape payroll taxes altogether and is required to be paid a reasonable compensation in the form of wages. According to the IRS, "Distributions and other payments by an S corporation to a corporate officer must be treated as wages to the extent the amounts are reasonable compensation for services rendered to the corporation.” The issue becomes, what is considered reasonable compensation? The IRS provides some factors that should be considered when making this determination:

- Duties and responsibilities
- Time and effort spent in the business
- What a comparable business would pay for similar services
- Qualifications and experience
- Size and complexity of the business

Another factor to consider is gross receipts of the corporation. What portion of gross receipts are generated from employees other than shareholders and what portion is directly attributable to the shareholders? The larger the portion of the gross receipts that are derived from the shareholders efforts, the larger the portion of the shareholder’s income should come from compensation.

A second source of cash for S corporation shareholders come in the form of shareholder distributions. Shareholder distributions are not subject to payroll taxes and can oftentimes be paid income tax-free. S corporations are flow-through entities, meaning taxable income flows through to shareholders to be taxed at the personal level. An S corporation shareholder that has adequate shareholder basis can take additional money in the form of a tax-free distribution above and

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DO YOU PAY FOREIGN VENDORS?

In general, businesses are required to file annual IRS Forms 1099 to report payments made to non-corporate U.S. vendors in a variety of circumstances. But did you know that businesses are also required to report certain types of payments made to foreign vendors and may be required to remit withholding tax on those payments?

Similar to Form 1099 issued to U.S. vendors, there is an additional filing requirement for payments made to foreign persons, which includes individuals that are not a U.S. person, foreign corporations, foreign partnerships and foreign estates. IRS Form 1042, *Annual Withholding Tax Return for U.S. Source Income of Foreign Persons,* is required to be filed for certain payments made to foreign persons. Some of the more common payments include, but are not limited to: interest; royalties; compensation for personal services; rents; and pensions or annuities.

Form 1042 must be filed with the IRS whether or not withholding tax is required. The specific filing requirements for this form are very complex and should be carefully considered, as the penalties for noncompliance can be quite substantial.

In a global world where movement and change is happening at a much faster pace, foreign persons have become engaged in many capacities with U.S. businesses. Businesses should take stock of who they have relationships with and how that affects their tax compliance responsibilities.

If you have any questions concerning potential filing requirements related to foreign vendors, please contact your Tronconi Segarra & Associates tax advisor.

Michelle A. Loretto, CPA
Small Business Department Manager

Understanding New York State's New Paid Family Leave Law

By Lisa A. Mrkall, CPA, MBA, Senior Manager

During 2016, Governor Andrew Cuomo signed into law the legislation enacting New York's Paid Family Leave (PFL) program. Beginning January 1, 2018, all eligible employees will be able to take time off, while still being paid a portion of their income, to bond with a new child, care for a family member or handle personal matters arising from an immediate family member being called to active duty in the Armed Forces of the United States. Employees are also entitled to be reinstated to their job when their leave ends, as well as the continuation of their health insurance.

The benefits under the NY PFL will be phased-in over a four-year period, beginning 2018 and fully implemented by 2021. The following chart summarizes the implementation schedule and the benefits available in each year:

Year	Weeks Available	% of Wages Paid During PFL *
2018	8	50%
2019	10	55%
2020	10	60%
2021	12	67%

*(*Represents the percentage of employee's average weekly wage or percentage of the state average weekly wage, whichever is less.)*

To be eligible for paid family leave, employees must have been employed full-time for 26 weeks or part-time for 175 days by a covered employer, at the time they apply for benefits.

If you are an employer, you may be wondering how you may be impacted. The new law requires any private employer who has at least one employee to purchase a Paid Family Leave insurance policy or self-insure in order to provide paid family leave benefits to eligible employees as part of New York State's disability insurance program. The benefits provided under the NY PFL will be entirely employee-funded, to be paid by the employees through payroll deductions. Employers are not responsible for contributing to or funding PFL benefits. Employers can, but are not required to, begin collecting employees' weekly contributions on July 1, 2017. The maximum employee contribution rate will be set each year, on September 1, by the Superintendent of Financial Services. This year, the maximum employee contribution has been set at 0.126% of the employee's weekly wage, up to and not to exceed 0.126% of the statewide average weekly wage ($1,305.92).

For more information and to find out how the NY Paid Family Leave program interacts with the Federal Family Medical Leave Act and the New York Disability Law, please contact your Tronconi Segarra & Associates tax advisor.

S Corporation, continued

beyond the compensation received as a shareholder-employee. This is in contrast to C corporations whose distributions are taxed as dividends to the shareholder.

Although the IRS would certainly prefer all compensation paid to the S corporation shareholder be in the form of taxable wages, it's important to remember that if you pay yourself a reasonable compensation for the services performed and generate enough income to create shareholder basis, the S corporation shareholder is also entitled to take reasonable distributions tax free.

NYS Excelsior Scholarship Program Underway

By Maria A. Dojka, CPA, Manager

This fall marks the implementation of the NYS tuition-free SUNY Excelsior Scholarship program, to be phased in over three years. It is available for families earning up to $100,000 annually in 2017, increasing to $110,000 in 2018 and reaching $125,000 in 2019.

To be eligible, one must be a first-time college student seeking an undergraduate degree at a SUNY institution, ruling out graduate school attendees and those pursuing a second associate's or bachelor's degree. Associate degree holders who go on to pursue a bachelor's degree may qualify for free tuition, but only if all of their credits transfer. Eligible applicants must be enrolled in college full-time and average 30 credits per year with at least 12 credits a semester (including summer and January semesters). College credits earned during high school can be applied to the recipient's program of study. There is some flexibility provided for students with hardship issues or disabilities.

Recipients are required to maintain a grade point average necessary for the successful completion of their coursework and are required to live and work in-state for the same number of years after graduation as they received the scholarship while in school. If the post-graduation residency and work requirement is not met, the award converts into a 10-year interest-free student loan. There are some specific exceptions to this requirement for military personnel and medical residencies working outside the state, as well as hardship considerations.

The State budgeted for 23,000 students to receive the award and to date has already received over 75,000 applications. While the State told the *Wall Street Journal* it expects some applicants won't be eligible for the award because of their grades, have household income that exceeds the limit or won't stay in-state post-graduation, it remains unclear, if there is a shortfall, how the State will make up the difference.

Taxability of Fringe Benefits for Owners of Flow-Through Entities

By Melissa S. Howell, CPA, Senior Manager

Part VI: Health Savings Accounts & Moving Expenses

To conclude our series on the tax treatment of fringe benefits, we will examine the proper taxability of contributions to health savings accounts and moving expense reimbursements.

Health Savings Accounts

A Health Savings Account (HSA) is an account owned by a qualifying employee that participates in a high-deductible health insurance plan to be used to pay for current or future medical expenses of the account owner, spouse and any dependents. Contributions to an employee's HSA are exempt from federal and state income tax withholding, social security tax, Medicare tax and FUTA tax. Partners and 2 percent shareholders of an S corporation are treated differently and are not eligible for salary pre-tax contributions to an HSA. Employer contributions are treated as guaranteed payments and shareholder distributions, respectively.

Moving Expense Reimbursements

Generally, an exclusion from taxable wages applies to any amount that is directly or indirectly paid to an employee as payment for, or reimbursement of, qualifying moving expenses. The exclusion applies only to the reimbursement of moving expenses that the employee could have otherwise deducted on their individual tax return if they had paid directly. Partners and 2 percent shareholders of an S corporation are not eligible for this exclusion.

For assistance in determining the proper taxability of fringe benefits offered within your company, please contact Tronconi Segarra & Associates.

SUMMERTIME TAX TIPS

As the summer begins to wind down, be sure to keep in mind these timely tips to help save time and money once tax season comes:

- **Summer Newlyweds** – When a name changes through marriage, it is important to report that change to the Social Security Administration by filing Form SS-5. Report a change in address as well with the U.S. Postal Service online at www.usps.com or at your local post office branch, and with the Internal Revenue Service via IRS Form 8822.
- **Child & Dependent Care Credit** – The IRS urges parents who send their children to summer day camps to save their paperwork for the Child & Dependent Care Credit. Taxpayers may be eligible to claim day camp or day care expenses on their 2017 tax returns filed in 2018.
- **Teenagers with Summer Jobs** – Be sure to complete IRS Form W-4 correctly so that the right amount of tax is withheld from the young employee's pay.

Lisa A. Mrkall, CPA, MBA
Senior Manager

Reconcile Your Business Credit Card Charges Monthly

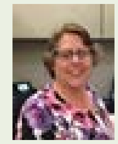
By Anne Marie Niedzialowski, Senior General Ledger Specialist

We all know that reconciling your bank accounts monthly in QuickBooks is a best practice, but did you know reconciling your credit card accounts is too? Doing so will ensure that common errors, such as forgotten charges or transpositions are caught and corrected in your company's file on regular basis. Better yet, this will make year-end cleanup less daunting.

Entering credit card charges on the date incurred is important, because you are entitled to a business deduction when the expense is charged to your credit card. If you make a large office supply purchase at the end of December, you are allowed to deduct the expense on your 2017 tax return even if you don't pay the credit card bill until January 2018. If you wait to record your credit card charges until you actually pay your bill, you could be inadvertently missing out on significant deductions!

Using the "Enter Credit Card Charges" option under the "Banking" pull down menu is the correct way to account for spending on your company credit card. Purchases you make throughout the month will increase expenses on the profit and loss statement as well as increase your credit card liability on the balance sheet. Reconciling bank and credit card accounts monthly will let you know where your business stands at any point during the year.

IN THE SPOTLIGHT: RUBY BALDWIN



Ruby is a General Ledger Specialist with 12 years of experience, as well as a QuickBooks Pro Advisor in our Bookkeeping Dept. She also assists with sales tax compliance and is often outsourced to client offices to provide this service. In addition, Ruby provides personal income tax preparation services to our clients. We are very thankful for Ruby's diverse skill set, but her skills go beyond the accounting profession. For many years, Ruby lived in Boston, MA and worked as a dietitian.

Ruby and her husband live in Clarence Center and are the proud parents of three children – a speech pathologist, a lawyer and a pilot. Outside of the office, Ruby enjoys traveling and biking. She recently completed a 106-mile bike ride along the Erie Canal!

Responsibilities of Retirement Plan Fiduciaries

By Michelle A. Loretto, CPA, Manager

Fiduciaries have a clear duty to control and manage the operation and administration of a retirement plan. The protection of the plan assets and its participants is the primary purpose of a fiduciary. Under new rules, those individuals providing investment advice for a fee are considered to be a fiduciary.

Documentation of the responsibilities shared and services performed may limit a fiduciary's exposure, but not eliminate it. This includes documentation of:

- Acknowledgment of the fiduciary status by service providers
- Policies in place to minimize conflict of interest
- Disclosure of any conflicts
- Review and approval of the fees charged
- Review and analysis of the investment policies and adequacy of the investment options available
- Review of the plan's operation as compared to the documented plan design

As a result of being considered a fiduciary, plan administrators may be subject to risk if they are deemed to be charging unreasonable fees for investment advice. The NYS Department of Labor allows investment advice through use of a computer model that is certified as unbiased or on a level-fee basis.