

# 2010 Year-End Guide for Controllers



Controllers are presented with many tasks and changing situations at the end of the calendar year. This memo is intended to provide guidance, reminders, and tips about certain responsibilities that will need your attention in the next few weeks, and includes an update of rates and limits for 2011. Items covered in the guide include:

- W-2s and Year-End Payroll Adjustments
- Information Returns
- Withholding on Non-Employee Payments
- The New Year
- State Issues

New Federal and state legislation brings many new challenges in terms of compliance and reporting. As we go to press, there are many uncertainties in our current tax laws. Some of the 2011 details may change depending on Congress' actions in the coming weeks.

The members of WeiserMazars LLP's Entrepreneurial Business Group are available to assist you in meeting your year-end compliance and reporting requirements.

**IRS Circular 230 Disclosure: As required by U. S. Treasury Regulations governing tax practice, you are hereby advised that any written advice contained herein was not written or intended to be used (and cannot be used) by any taxpayer for the purpose of avoiding penalties that may be imposed under the U. S. Internal Revenue Code.**

## W-2S AND YEAR-END PAYROLL ADJUSTMENTS

W-2 forms must be distributed to your employees by January 31, 2011. Before processing W-2s, the following steps should be taken:

- Notify your payroll service in writing to keep your 2010 payroll file open for adjustments, including manual checks and voids, taxable fringe benefits, and third-party sick pay.
- Many payroll services can provide a W-2 draft report, which should be reviewed before the W-2s are finalized. This step will eliminate the need for incurring expenses to revise incorrect W-2s, and/or to file amended W-2s.
- Report any manual payroll checks, voided checks, etc. to your payroll service **before** your last December payroll, or before the closing date for adjustments as agreed to by your service. Unreported adjustments will result in the need for W-2cs, extra charges from your payroll service, and, probably, penalties for late payment of taxes.
- Review your bank reconciliations and your general ledger net payroll account to make sure that all adjustments have been reported.
- If you have a 401(k) plan, premium only plan, or other plans administered by your payroll service, review the coding of your employees so that the appropriate testing can be performed by the service to avoid disqualification of the plan.
- Before distributing W-2 forms to employees, reconcile the totals to your general ledger and to the quarterly 941 returns that were filed for the year.

Paper W-2s must be filed with Social Security Administration by February 28, 2011. W-2 forms can be filed electronically with Social Security Administration online for up to 20 employees at [www.ssa.gov/employer](http://www.ssa.gov/employer). If you are filing 250 or more returns, they **must** be filed electronically using specialized software. The due date for electronically filed returns is March 31, 2011.

## Common Payroll Adjustments

Following is a brief summary of some of the items that are taxable to employees in addition to wages and salaries.

### *Third-Party Sick Pay*

Sick pay or disability payments made to your employees by your insurance carrier are includible as compensation on the W-2. Such payments, particularly those made in the 4<sup>th</sup> Quarter, will not be reported to you by the insurance carrier until sometime in January. You should determine if your disability insurance carrier is responsible for filing a separate W-2 for sick pay. If not, it is important that you inform your payroll service to keep 2010 open for adjustments.

### *Employee Business Expense Reimbursements*

If you have an accountable plan (where your employees must give an accounting to you and substantiate their expenses), do not report any reimbursement to your payroll service. However, if you make payments for expenses to your employees and they **do not** account to you or substantiate their expenses, then you **must** include those payments as wages, subject to all taxes.

### *Taxable Premiums on Excess Group Life Insurance Premiums*

Each employee who is covered for more than \$50,000 of group term insurance must be taxed on the value of the excess coverage. Report the cost in Boxes 1, 3, and 5 of form W-2, and in Box 12 with “Code C”. This benefit is subject to FICA and Medicare tax, but not income tax withholding. The amount to be included is calculated based on the age of the employee and the amount of coverage, and the cost in accordance with this table published by the IRS:

<u>Five-Year Age Bracket</u>	<u>Cost per \$1,000 of Protection per Month</u>
Under 25	\$0.05
25 to 29	\$0.06
30 to 34	\$0.08
35 to 39	\$0.09
40 to 44	\$0.10
45 to 49	\$0.15
50 to 54	\$0.23
55 to 59	\$0.43
60 to 64	\$0.66
65 to 69	\$1.27
70 and above	\$2.06

***Year-End Bonus Payments***

Notify your payroll service if you want an additional bonus payroll set up. Advise your employees that taxes **must** be withheld. Several of our clients have had withholding tax audits, and one of the areas being audited is bonus payments. You could be subject to penalties and/or interest if the proper taxes are not withheld. This applies to State and City withholding as well as Federal.

For 2010, the optional flat rates for withholding on supplemental payments including bonuses are:

Federal	25.00% <i>(except amounts over \$1,000,000, which are subject to 35% withholding)</i>
Connecticut	no optional flat rate, use regular rates
New York State	9.77%
New York City Resident	4.75%
Yonkers Resident	.977%
Yonkers Nonresident	.5%
New Jersey	no optional flat rate, use regular rates
Pennsylvania	3.07%

***HIRE Wages Paid to Qualified Employees***

Any wages and tips paid to qualified employees after March 18, 2010 and exempted from payroll taxes under the HIRE Act must be reported in Box 12 of Form W-2 using Code CC, and on Form W-3 in Box 12b. Form W-11 or another similar statement must be signed by the qualified employee under penalties of perjury and must be retained by the employer.

If you hired qualified employees, but did not take advantage of the exemption, it is still possible to benefit by obtaining Form W-11 and filing amended forms 941. We can assist you to claim refunds of payroll taxes paid on qualified employees.

***CHIPRA Notice***

The Children's Health Insurance Program Reauthorization Act of 2009 requires that employers must notify individuals of their rights to obtain premium assistance for coverage for children. A model notice is available at [www.dol.gov/ebsa/](http://www.dol.gov/ebsa/).

***Educational Assistance***

Employer-provided education assistance program payments up to \$5,250 are not subject to tax. Amounts in excess of \$5,250 per year must be included as taxable wages, unless the expenses are considered to be working condition benefits, i.e., the employee would have been able to deduct the cost if he or she had paid for it. Payments for business training under an accountable plan are not required to be reported on Form W-2.

### ***Taxable Fringe Benefits***

Be sure to report to your payroll processor any includible amounts, such as the value of personal expenses advanced by the company, including personal auto usage, travel for family members, meals and entertainment, professional fees, etc. Employees who use company vehicles are required to keep records that substantiate their business usage of such vehicles. Expenses reimbursed under a non-accountable plan must be included in the employee's income.

Health insurance premiums paid by S Corporations on behalf of greater than 2% shareholders must be reported as wages and included on the shareholder-employee's W-2 form. If the insurance premiums are paid under an employee benefit plan maintained by the S Corporation, then the premiums are subject to Federal Income Tax withholding but not Social Security, Medicare or FUTA.

### ***Nonqualified Deferred Compensation Plans***

All amounts deferred under a nonqualified deferred compensation plan are currently includible in gross income unless certain requirements are satisfied (Code Section 409A). Such deferrals are reported on Form W-2 in box 1 and in box 12 using Code Z (income amount). Code Y (deferral amount) is not required to be reported on Form W-2.

### ***Other Reportable Amounts***

If you have any special situations, including adoption benefits, Medical Savings Accounts, moving expenses, outplacement benefits, or employee business expense reimbursements under a non-accountable plan, contact us to discuss proper treatments.

## **INFORMATION RETURNS**

Many payments made in the ordinary course of business must be reported to the IRS, generally on 1099 series forms. Not-for-profit organizations are also considered to be engaged in a trade or business, and are subject to reporting requirements. 1099 forms must be distributed to the recipients by January 31, 2011, but the due date for furnishing Form 1099-MISC (and certain other 1099 forms) is February 15, 2011 if you are reporting payments in Boxes 8 or 14. Forms must be filed with the IRS by March 1, 2011 (March 31, 2011 for electronically filed forms).

Failure to file correct 1099 forms can result in penalties of up to \$500 per return, with a maximum of up to \$1,500,000 (\$500,000 for businesses with gross receipts under \$5,000,000). In addition, in order to claim a safe harbor exemption regarding independent contractors, form 1099-MISC must have been filed and in IRS audits, the agents typically ask to see 1099-MISC forms.

Payee identification numbers can be truncated on certain paper payee statements, but not on any forms filed with the IRS or state and local governments, or on any payee statement furnished electronically.

Reporting requirements will change dramatically starting in 2012. All payments (except those made by credit card) in excess of \$600 must be reported. In order to be ready for this change, accounting systems will have to be revised during 2011 to capture all reportable data. Significant efforts will be required to obtain W-9 forms from all vendors. Controller should plan on making the required changes early

The following list of items requiring reporting is not all-inclusive!

### **1099-MISC**

Payments of \$600 or more made to individuals, partnerships (including LLPs and LLCs), physicians, physicians' corporations, other suppliers of health and medical services, and **all attorneys**, are reportable. Payments for merchandise and payments to real estate agents for rents are **not** reportable, but payments of rent to landlords are reportable. Payments for royalties in excess of \$10 are reportable.

### **Attorneys**

Payments made to attorneys must be reported, **even if the attorney is a corporation**. If a payment is made to an attorney and the portion that is a legal fee cannot be determined, the total amount paid to the attorney must be reported (Box 14). These rules apply even if the attorney is not the exclusive payee.

### **Settlements**

Punitive damages, damages for non-physical injuries or sickness, and any other taxable damages must be reported on Form 1099-MISC. Certain damages are not to be reported. Please call our office for further information regarding taxable and non-taxable damages.

### **1099-INT**

Any interest payments of \$10 or more (in excess of \$600 in some cases) to individuals, partnerships, and LLCs must be reported. If interest has been imputed on a loan, this should be reported to avoid the below-market interest rules.

### **1099-OID**

Original issue discount of \$10 or more on notes, including installment sale notes, must be reported on an accrual basis each year.

### **1099-R**

Distributions to participants of \$10 or more from your pension plan, 401(k) etc., must be reported with the appropriate codes. Coordinate with your actuary or plan administrator to determine who will be responsible for filing 1099-Rs. Cost of current life insurance protection provided by a pension plan must also be reported on Form 1099-R.

### **1098**

Mortgage interest of \$600 or more **received** by you from an individual must be reported, if you are engaged in a trade or business of lending.

***Tip Reporting***

All employees receiving \$20 or more a month in tips must report 100% of their tips to their employer. Form 8027 is due by March 1, 2011 or by March 31, 2011 if electronically filed. The IRS has offered employers in the food and beverage industry an alternative to tip reporting — the Attributed Tip Income Program (ATIP). There is no contract to sign and participation is voluntary. If you need further information on tip reporting, please contact us.

***Other***

There are numerous other situations that require reporting, such as payments to fish vendors, Archer Medical Savings Account payments, real estate transactions, barter transactions, cancellation of debt, etc. Contact us for further information on these types of reporting.

**WITHHOLDING ON NON-EMPLOYEE PAYMENTS**

Form 945 to report other withholding tax must be filed by January 31, 2011. Taxes reported on Form 945 must be deposited separately from other withheld taxes.

Form 1042 is used to report tax withheld from foreign persons or entities. Form 1042 must be filed and furnished to recipients by March 15, 2011.

***Withholding Tax on Pension Distributions***

All lump-sum retirement plan distributions paid directly to employees (as distinguished from rollovers) are subject to an automatic 20% Federal withholding tax. This applies whether the distribution is due to changing jobs, retirement, termination, or early withdrawals. Minimum distributions (for beneficiaries over 70 ½) are subject to 10% withholding, only if the beneficiary so desires.

If the lump-sum distribution is paid directly to a trustee of a rollover account, the 20% withholding tax will not apply. However, the distribution must be paid directly to the rollover IRA, and must not be payable to the employee. Tax withheld on pension distributions is reportable on Form 945.

***Backup Withholding***

Payments that are subject to 1099 reporting are subject to backup withholding at a rate of 28% for payments made in 2010 and 31% for payments made in 2011 if you do not have an accurate taxpayer identification number from the recipient. The IRS enforces the collection of such withholding where a Form 1099 reports a missing taxpayer identification number, or an incorrect number. You will be liable for uncollected tax, penalties, and interest on such payments. Therefore, it is more important than ever that payments which are subject to 1099 reporting should not be made until the payee's taxpayer identification number is obtained. Form W-9 (or one of the Form W-8 series for foreign persons) should be used for obtaining taxpayer identification numbers.

If you receive a notice from the IRS that a number is incorrect, you will have to start to withhold taxes from future payments for that payee. Backup withholding is reportable on Form 945.

### ***Foreign Partners or Payees***

Partnerships with foreign partners must withhold tax on the allocated income and remit it quarterly on Form 8813. Form 8804 and Form 8805 to report income and tax withheld must be filed annually by the 15<sup>th</sup> day of the 4<sup>th</sup> month following the close of the partnership's year (April 15<sup>th</sup> for calendar year partnerships.) Certain payments to foreign payees for services performed in the United States require tax to be withheld and remitted on Form 1042 by March 15, 2011.

## **THE NEW YEAR**

### ***Employee Elections***

Have your employees complete all appropriate election forms for 401(k) deferrals, flex plan contributions, etc., for 2011 in writing, in accordance with each plan's provisions before January 1, 2011.

### ***Changes to Flexible Spending Account (FSA) Reimbursement Rules***

Starting in 2011, FSAs cannot make tax-free distributions for non-prescription medications (with certain exceptions, e.g., insulin). Employees may wish to revise the amount they contribute to their FSAs based on this new rule.

### ***Health Care Reform***

Many of the mandates in the Patient Protection and Affordable Care Act become effective in 2011. Your plan should be reviewed for compliance. If your plan is grandfathered, you should review what is required to protect that grandfathered status.

### ***Health Care Benefit Reporting***

For 2011, it was expected that reporting the cost of employer provided health care benefits would be required, but including that information on Form W-2 for 2011 is voluntary.

### ***New W-4 Forms for 2011***

If you have any employees who are claiming exemption from taxes, you **must** get a new W-4 form signed by them to continue exemption from withholding for 2011. IRS regulations require employers to notify their employees to file a new W-4 form for any changes to their withholding status. It is also advisable to verify that you have a valid W-4 form for each employee, and that your payroll service is withholding based on the proper exemptions.

The Social Security Administration will continue to send letters when employee social security numbers of W-2 forms do not match its records. Employers can verify social security numbers of employees at [www.ssa.gov/bsa](http://www.ssa.gov/bsa).

***I-9 Forms***

Employers are required to verify eligibility for employment for all employees hired after 1986. Form I-9 is used for this purpose. Review your personnel files to determine that you have I-9 forms for all required employees. The August 2009 version of Form I-9 must be used for new hires. Penalties for non-compliance range from \$110 to \$1,100 for each violation. U. S. Immigration and Customs Enforcement (ICE) has launched a new audit initiative and will hold employers accountable for failure to comply.

Employers should take care not to use an Individual Taxpayer Identification Number (ITIN) that may have been assigned to certain nonresident and resident aliens. Only a Social Security number can be used for employment purposes.

***Earned Income Credit (EIC)***

Employers are no longer required to make advance EITC payments. Form W-5 is eliminated. Affected employees should be informed and payrolls should be corrected to remove this payment.

***Increase in Supplemental Withholding Rate***

For 2011, the optional flat rate for Federal withholding on supplemental payments including bonuses increases to 28%.

***Electronic Deposit of Taxes (EFTPS) and Discontinuance of Form 8109-B***

As of January 1, 2011, the coupons used for making Federal tax deposits, Form 8109-B, is discontinued. Banks will no longer accept Federal tax payments, and all Federal tax payments must be made through the Electronic Federal Tax Payment System. To enroll in EFTPS, go to [www.EFTPS.gov](http://www.EFTPS.gov).

***Statutory Insurance***

Confirm that your state disability and workers' compensation policies are in force. States impose high daily penalties if policies have not been purchased or have lapsed.

On routine audits of workers' compensation policies, the carrier will ask for certificates of coverage for independent contractors. If none can be produced, payments made to independent contractors will be included in your premium base. Make it a practice to obtain certificates of coverage before independent contractors are hired and retain them on file.

**2011 Social Security & Medicare Tax Base**

The 2011 rates and the taxable wage base for FICA remain the same as 2010. There is no limit on the amount of wages subject to the Medicare tax:

	<u>Wage Base</u>	<u>Tax Rate</u>	<u>Maximum Tax</u>
Social Security	\$106,800.00	6.20%	\$ 6,621.60
Medicare	all - no limit	1.45%	no limit

**401K Maximum Deferral**

For 2011, the maximum deferral amount remains at \$16,500 for those 49 years and younger or \$22,000 for those 50 years and older. In order for those 50 years and older to make the catch-up contribution, the Plan Sponsor must amend the plan (if not previously amended) to permit the catch-up contributions, notify the plan participants that they can make catch-up contributions, and revise the plan election forms. In addition, since the catch-up contribution is not included in nondiscrimination testing, it has to be accounted for separately from other 401(k) contributions.

**Simple IRA & SIMPLE 401K**

For 2011, the maximum remains at \$11,500 for those 49 years and younger or \$14,000 for those 50 years and older.

**Auto Mileage Reimbursement**

The 2011 auto mileage rates will increase to 51 cents per mile for business usage.

**Transportation Fringe Benefits**

The monthly exclusion for parking and transit passes has not yet been announced.

Please contact our office for updates.

**Per Diem Rates for Business Travel**

For 2011, for travel within the continental U.S., the per diem rate for travel to any high-cost locality (as defined) is \$233 and the new rate for any other locality is \$160.

***Report of Foreign Accounts***

Form 90-22.1, Report of Foreign Bank and Financial Accounts, for the year 2010 is due on or before June 30, 2011. The type of accounts and filing requirements have been expanded to include certain types of investments as well as bank accounts and those who are authorized to initiate transactions and can sign on foreign accounts. There are significant penalties for failure to file. Please contact us for further information regarding your filing obligations.

**STATE ISSUES*****Minimum Wage***

In New York State, New Jersey, and Pennsylvania, the minimum wage remains at \$7.25 per hour. In Connecticut, the rate is \$8.25 per hour.

Tipped employees in the food service industry must receive cash wages per hour of no less than \$4.65 in New York, \$2.13 in New Jersey, \$5.69 in Connecticut (\$7.34 for bartenders in Connecticut.), and \$2.83 in Pennsylvania. Total cash wages plus tips must total the minimum wage rate for each particular state (New York, New Jersey and Pennsylvania, at least \$7.25 per hour, Connecticut, at least \$8.25 per hour).

***New Hire Notification***

You must continue to provide information about newly hired employees within 20 calendar days (New York and Pennsylvania) and 15 days (New Jersey) from the hiring date or rehire date. Contact information is:

	<b><u>New York State</u></b>	<b><u>New Jersey</u></b>	<b><u>Connecticut</u></b>
Fax	518 320-1080	800 304-4901	800 816-1108
Internet	<a href="http://www.nynewhire.com">www.nynewhire.com</a>	<a href="http://www.nj-newhire.com">www.nj-newhire.com</a>	<a href="http://www.ctnewhires.com">www.ctnewhires.com</a>

**Pennsylvania**

Fax	717 657 4473
Internet	<a href="http://www.panewhires.com">www.panewhires.com</a>

Multi-state employers can designate one state in which any employee works and transmit all new hire information to that state alone. You must notify the U. S. Department of Health & Human Services in writing if this option is selected. A multistate employer notification form is available on [www.acf.hhs.gov](http://www.acf.hhs.gov).

Your payroll processing company may or may not report new hires as part of its service, so you should contact your provider to determine whether or not this is being handled for you.

***Notification to Newly Hired Employees***

New York State requires that newly hired employees be notified in writing at the time of their hiring as to their rate of pay, their overtime rate of pay (if eligible for overtime) and the employer's regular pay day. The employer must obtain and retain a written acknowledgement from the employee of the

receipt of the written notices. There are significant penalties for failure to comply — \$1,000 for the first violation, \$2,000 for the second violation and \$3,000 for each subsequent violation. The notification must be made using the official form published by the New York State Department of Labor. Form LS-54 is available at [www.labor.ny.gov](http://www.labor.ny.gov)

### ***Withholding Requirements for Non-Resident Partners***

Many states require partnerships and limited liability companies to withhold estimated taxes from non-resident partners, but there are situations where certain partners may be exempted. Contact us for further information.

### ***New Jersey Unemployment and Disability Maximum Earnings***

New Jersey Unemployment and Disability Maximum Earnings have increased to \$29,600 per year. The total withholding rate for employees is .00985. The maximum employee deduction for 2011 is \$291.56.

### ***New York State Limited Liability Annual Reports***

Form IT-204LL is required for each Limited Liability Partnership and Limited Liability Company organized and/or doing business in New York State, including disregarded entities. Returns and payments are due by January 30, 2011, must be filed and paid electronically, and no extensions are permitted. Please contact us for further information.

### ***New York State Metropolitan Commuter Transportation Mobility Tax (MCTMT)***

The MCTMT payroll tax requires quarterly payments based on .34% of covered wages for employees and self-employed individuals. For the quarter ending December 31, 2010, payment is due by January 31, 2011. For 2011, due dates are April 30, 2011, July 31, 2011, October 31, 2011 and January 31, 2012. There is also an annual return that is due by April 30, 2011.

### ***Pennsylvania Withholding Tax***

Pennsylvania income taxes should be withheld from Pennsylvania residents for work performed in Pennsylvania, New Jersey and other states with which Pennsylvania has a reciprocal wage agreement. For 2011, the withholding rate will remain at 3.07%.

### ***Pennsylvania Unemployment Compensation***

In 2011, the employee withholding rate remains at .0008 on all wages earned. Employers pay the unemployment compensation tax on the first \$8,000 of employee wages at the contribution rate assigned by the State Department of Labor and Industry. Contribution Rate Notices will be mailed in December for calendar year 2011.

Electronic filing of the quarterly employer's reports will be required beginning in 2011. The E-TIDES site will no longer accept quarterly unemployment wage and tax reports and payments. The new online Unemployment Compensation application must be used to file and pay quarterly reports.

***Philadelphia Wage Tax***

Effective July 1, 2010, Philadelphia wage tax should be withheld by all Pennsylvania employers on wages paid to Philadelphia residents at the rate of 3.928% and on non-residents for services performed in Philadelphia at the rate of 3.4985%. The rate is based on Philadelphia's fiscal year and may be subject to change during the year.

***This memo is intended to be informational and to advise you of some highlights.  
It is not all-inclusive.***

***Please contact your Engagement Partner, WeiserMazars LLP's Entrepreneurial Business Group (at [EBG@WeiserMazars.com](mailto:EBG@WeiserMazars.com) or by using the directory on the following page), if you have any questions on these year-end procedures or any other reporting requirements.***

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### ***About WeiserMazars LLP's Entrepreneurial Business Group***

Entrepreneurial businesses have been a core service area of WeiserMazars' business since 1921. WeiserMazars' trusted professionals understand the unique issues facing entrepreneurial businesses and are committed to providing a comprehensive and objective approach to position your business venture for success. Our Entrepreneurial Business professionals provide multi-disciplinary services to a wide range of clients. Our practice leaders in the Entrepreneurial Business Group will be happy to assist you.

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