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# Year End Tax and Payroll Reporting

December 2021

Dear Client,

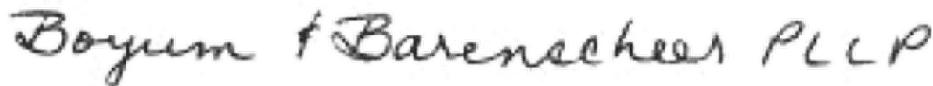
The attached information has been gathered to ensure your Payroll reporting season goes smoothly. This includes information needed for 2021 year-end reporting and 2022 withholding, depositing and reporting. You will also find information on owner coverage for the Minnesota unemployment election and a sales & use tax update.

In many cases, the information reporting process requires that computations be made near year-end to withhold and remit appropriate payroll taxes to reduce or avoid late payment penalties. In addition, the due dates of the applicable returns leave a very short period of time in which to make these calculations, prepare and file the returns.

Please note the filing due dates for 2021 forms W-2, W-3 and 1099-NEC. These forms must be filed by January 31, 2022. **It is important to organize your information and get it to your preparer as soon as possible.** We cannot guarantee completing the forms by the deadline if information is received after January 24, 2022. If you need EINs for 1099s, start to obtain those as soon as possible so you can file on time and avoid penalties.

We are available to give you the assistance you may need with any of these items. Please give us a call if we can help in making the computations, preparing the documents or in answering questions you may have regarding these issues.

Sincerely,



Boyum Barendscheer

■ 1210 W. County Rd E., #100  
Arden Hills, MN 55112  
651.222.1801

■ 3050 Metro Drive, #200  
Minneapolis, MN 55425  
952.854.4244

■ 21080 Olinda Trail N.  
Scandia, MN 55073  
651.433.5885

■ 319 Barry Ave S., #205  
Wayzata, MN 55391  
952.475.9970

**YEAR-END TAX REPORTING  
DECEMBER 31, 2021**

**MILEAGE RATE**

The IRS allowed standard business mileage rate for calendar year 2021 was 56 cents per mile. The 2022 calendar year standard mileage rate is not yet available.

**MINIMUM WAGE CHANGES**

MN Minimum wage will increase to \$10.33/hour for large employers and \$8.42/hour for small employers and youth wages on January 1, 2022. Large employers are defined as businesses with annual gross dollar volume of sales made or business done of \$500,000 or more. Minneapolis has passed an ordinance that will raise the minimum wage to **\$15/hour** over the next several years. This would affect any employee working at least 2 hours in a calendar week within the City of Minneapolis. The rate effective July 1, 2021 was \$12.50/hour for employers with less than 100 employees and \$14.25/hour for employers with more than 100 employees. The rate will increase again July 1, 2022 to \$13.50/hour for employers with less than 100 employees and \$15/hour for employers with more than 100 employees.

\*\*\*\*\***COVID Information**\*\*\*\*\*

**COVID-19 Payroll-related programs**

**Paid Sick Leave Credits expired September 30, 2021**

**Employee Retention Credit**

Available to all employers, even those that received a PPP loan, that meet one of the following categories:

1. Employer's business is fully or partially suspended by government order due to COVID-19 during the calendar quarter
2. The employer has a significant decline in gross receipts. It begins in the first quarter in 2020 when the gross receipts are below 50% of the same quarter as 2019.
3. The employer has a significant decline in gross receipts in 2021 compared to the same quarter in 2019. Significant decline determined at 20% of the same quarter as 2019.

The credit is based on qualified wages and health plan expenses paid from 3/13/2020 through 09/30/2021. Wages that were used for paid sick and family credits or Paycheck Protection loans do not qualify. For employers with 500 or less full-time employees, qualified wages are based on wages paid to all employees, regardless of whether or not they worked.

The ERC credit is claimed on Form 941 or 941-X.

### **Employer payroll tax deferral**

For qualified employers that chose to do the deferral, 50% of the deferral is due 12/31/2021 and the remaining 50% is due 12/31/2022

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### **MINNESOTA WAGE THEFT LAW**

Minnesota passed a wage theft law effective July 1, 2019 which includes new reporting requirements involved with new hires and when there are changes to just about anything for an employee (address, pay rate, deductions, benefits, etc). Documents need to be retained in the employee personnel files.

The intent of the law is to make it criminal for employers to commit “wage theft” and carries with it new recordkeeping requirements. The following are some recommendations regarding the new requirements:

### **The first one is the most important – this is the MN Dept. of Labor and Industry’s approved notice form for new hires.**

New hires: You must provide this to all new hires beginning July 1. The most straightforward approach is to make this an enclosure with the offer letter so that you know you have a freestanding, signed copy for every new hire. The offer letter should note the enclosure and ask the employee to sign it on or before their first day of work. You should then put the form in the employee’s personnel file.

Existing employees/updates after hire: Note that this form must be updated when anything on the form changes. Every time an employee has a change of address, a change in status from exempt to non-exempt, a revised salary or hourly rate, or changes in deductions or benefits, you’ll have to update the form. It is a best practice – but not required – to have the employee sign the updated form. Again, all updates should go in the employee’s personnel file. As your existing employees have changes in their terms of employment, you’ll have to give them a form showing the new terms. At some point, you’ll have to give every employee one of these forms. You do not need to provide existing employees this form until their compensation or other terms and conditions of their employment change.

A copy of the approved reporting form is included with this package along with a checklist of the information that must be provided on employees’ paystubs.

### **2021 FORM W-2 INCLUSION OF AUTO USAGE**

If your business (corporate, partnership, LLC, or sole proprietorship) owns autos that are used by you or your employees less than 100% for business, or if you reimburse employees as an auto allowance for use of their personal vehicles more than the standard rate per mile, the law generally requires that the value of the personal usage or excess auto reimbursement be included in the employees’ Form W-2 and that FICA taxes be paid on these amounts. Generally, for owners of sole proprietorships and partnerships (LLCs), vehicle deductions are reduced for personal usage vs. including the value in Form W-2.

## **S CORP OWNER HEALTH BENEFITS**

More than 2% S corporation shareholders need to make sure their company-paid health insurance premiums are included on their 2021 W-2s. Notice 2008-1 issued by the IRS states that if the health insurance premiums are not included on form W-2, the shareholder will not be able to deduct the health insurance premiums on their form 1040.

If you have such premiums, make sure to let your payroll service know the amount so they can add the premiums to the W-2s in their year-end processing. The addition is only added to Box 1 and Box 16 of the W-2 (it is not subject to FICA or Medicare taxes). Box 14 should say "S-Corp Health" and state the dollar amount of health premiums included in Boxes 1 and 16. If you are an S corporation shareholder and have been paying your own premiums, you must have the corporation reimburse you before December 31 and include that amount on your W-2.

## **FORM 1099 FILING REQUIREMENTS**

Every person engaged in a trade or business, including a partnership, LLC and non-profit organization, must file information returns for each calendar year for certain payments made during the year to unincorporated entities, including LLCs, LLPs, partnerships and payments made to attorneys even if they operate in corporate form. The business payments which occur most often that require reporting on Form 1099 are 1) \$10 or more of dividends or interest 2) \$600 or more of rents, royalties, payments to independent contractors, payments for commissions or director fees 3) distributions from retirement plans, employee benefits (not included on Form W-2) and legal fees (any amount). Payments made with a credit card or payment card, including third-party network transactions are reported under Form 1099-K by the payment settlement entity and are not subject to reporting on Form 1099-MISC or 1099-NEC. Form 1099 requires a telephone number of the issuer on the recipient's copy allowing that person to contact them if they have questions.

Please note that if the recipient marks box 3 on Form W-9 as *individual/sole proprietor or single-member LLC*, the name on the Form 1099 should match the taxpayer name as reported on their 1040, not the name of the business.

New for 2020

Form 1099-NEC replaces form 1099-MISC for reporting of non-employee compensation. Rent and other income continue to be reported on Form 1099-MISC.

We advise that those involved in rental real estate also report nonemployee compensation for payments of \$600 or more to any qualifying individual or business entity.

Form 1099-NEC must be filed with the Internal Revenue Service by January 31st. For Form 1099-MISC, the deadline is February 28<sup>th</sup> for paper filings or March 31<sup>st</sup> for electronic filings. Recipient copies must be mailed by January 31, 2022.

There are substantial penalties for failure to file information returns. The Internal Revenue Service has also been increasing their audits in regard to informational reporting compliance.

We have attached a worksheet you may complete if you would like us to prepare your Forms 1099. We are also available to assist you in accumulating the information which is needed for completion of the forms. Please call us if we can be of assistance to you.

## **AFFORDABLE HEALTH CARE ACT**

Employers with 50 or more full-time equivalent employees (large employers) are required to provide Form 1095-C, Employer-Provided Health Insurance Offer and Coverage Information, to all full-time employees by January 31, 2022. Full-time employees, for purposes of this reporting, include any employee that meets the full-time standard for 1 or more months of the year. Form 1094-C, Transmittal of Employer-Provided Health Insurance Offer and Coverage Information is due February 28, 2022 (March 31, 2022 if filing electronically).

Under the Affordable Care Act, large employers can no longer reimburse employees for individual health insurance premiums. Reimbursements for individual policies are taxable compensation to the employees – subject to Social Security, Medicare, federal & state income taxes. Companies can be subject to \$100/day penalty per employee, or up to \$36,500/year per employee.

Employers are permitted to offer Individual Coverage HRAs as an alternative to traditional group plan coverage, subject to certain conditions. Increased flexibility in employer-sponsored insurance for limited HRA benefits (Excepted Benefit HRAs) that can be offered in addition to traditional group plans. Excepted benefits can include the cost of copays, deductibles, or other expenses not covered by the primary plan, even if the employee declines enrollment in the traditional group health plan. There are employee notice requirements and employers must have reasonable procedures to substantiate that participating employees and their families are enrolled in individual health insurance or Medicare while covered by the HRA. Please contact your benefits administrator for additional details.

## **MINNESOTA UNEMPLOYMENT OWNER COVERAGE ELECTION**

Minnesota Unemployment requires individuals who own 25% or more of a corporation or LLC to make an election to be covered if they so desire. This election applies to ALL owners/officers as a class and is effective for a minimum of two years. To terminate an election, an employer must notify the MN UI program by December 1<sup>st</sup> for coverage to be terminated the following January 1<sup>st</sup>. For new employee-owners, this must be done before the initial wage report is filed or you will default to electing out of MN coverage for owners. Proprietors and partners have no such requirement.

You should discuss with your accountant the option to be covered or not covered by Minnesota Unemployment Insurance. Since each situation is unique, the right decision requires consideration of a number of factors.

## **2021(2022) WAGES AND WITHHOLDING TAXES**

Below is a table reflecting the W-2 wage levels and the applicable Social Security and Medicare tax rates for 2021 and 2022:

	<u>2021</u>	<u>2022</u>
Social Security wage limit	\$142,800	\$147,000
Social Security rate	6.2%	6.2%
Medicare rate for all wages	1.45%	1.45%
Medicare surcharge for wages >\$200,000	.9%	.9%

Employer matches 6.2% and 1.45% but NOT .9% surcharge

### **401(k)s, SEPs AND SIMPLE IRAs**

Amounts withheld from employees' wages for 401(k), SARSEP or Simple IRA contributions must be deposited as soon as reasonably possible after withholding. We recommend making these deposits within a few days from date withheld.

Maximum elective deferrals for 401(k)s and SARSEPs in 2021 is \$19,500 (\$20,500 in 2022) plus \$6,500 catch-up contribution if age 50 or over. Simple IRAs are limited to \$13,500 in 2021 (\$14,000 in 2022) plus \$3,000 catch-up. IRAs are limited to \$6,000 in 2021 (no change in 2022) plus \$1,000 catch-up.

### **W-2 FILING REQUIREMENTS**

The IRS and Social Security Administration require electronic filing of W-2s if you have more than 250 forms. For Minnesota, the threshold is 10 forms. Both agencies allow manual input for 20 or fewer forms or a formatted file for a larger number of forms.

Information on employer paid health insurance premiums is optional to be reported on W-2s for employers that file fewer than 250 W-2s and will remain optional in the future unless the IRS publishes guidance giving at least 6 months advance notice of any change. Reporting the health care premiums is required for those that file 250 or more W-2s.

### **2022 PAYROLL WITHHOLDING DEPOSITS**

In most cases, the due dates of tax deposits remain the same for 2022. Employers will be required to deposit all of their federal tax liabilities by electronic means. If you have not registered for electronic filing (EFTPS) it is critical that you do so as soon as possible. If you have less than \$2,500 tax liability for a quarter, you may pay that amount with your Form 941, but only if you are classified as a monthly depositor. Liabilities between \$2,500 and \$100,000 must be deposited on either a monthly or eighth monthly schedule. Accumulated federal tax liabilities over \$100,000 must be deposited by the next business day. Electronic filing is required for all Minnesota withholding. Due dates for depositing Minnesota withholding taxes follow federal rules. If your total withholding tax is less than \$1,500 for the previous quarter, you can pay the total amount when you file the quarterly Form MW-1. Electronic payment is required for all Minnesota taxes if any of your business taxes exceeded \$10,000 in the previous fiscal year (July 1 – June 30).

### **2022 MINNESOTA UNEMPLOYMENT**

The wage base for 2022 for each Minnesota employee subject to Minnesota Unemployment Tax is not available at the time. The rate varies from a base of .1% to as high as 8.9% for high experience rating industries. Also, newly hired or rehired employee information must be reported by the employer to the Minnesota Unemployment Tax division. Form W-4 or other information forms must be faxed or mailed to "Minnesota New Hire Reporting Center" within 15 days of a new employee starting work. The information must include name, address and Social Security number. The fax number is (800) 692-4473. The address is Minnesota New Hire Reporting Center, P.O. Box 64212, St. Paul, Minnesota, 55164. For detailed information call (800) 672-4473.

## **TAX LAWS RELATING TO WITHHOLDING ON BONUSES**

A flat federal rate of 22% can be used for supplemental wages paid separately from regular wages in most situations. Additional information is available in IRS Notice 1036. Access the full notice at: <https://www.irs.gov/pub/irs-pdf/n1036.pdf>

Minnesota withholding on supplemental wages is 6.25% (no change from prior year).

## **Sales & Use Tax Updates**

### **MARKETPLACE FAIRNESS ACT**

Over 30 states now have marketplace fairness standards. Marketplace facilitators (such as Amazon & Etsy) are required to collect and remit sales tax on behalf of their third-party sellers. Marketplace facilitators only collect sales tax on the sales through their website. The total volume of sales are usually used for thresholds, meaning businesses may still need to register and collect on other sales to the state. Sellers may be responsible to remit sales tax for the state(s) where they are located. Most states still require businesses to register even if they have no other sales to the state and need to file zero returns or register for non-reporting status. Over 10 states have reporting requirements for sellers.

### **Wayfair Supreme Court Case**

In June 2018, the U.S. Supreme Court ruled on the South Dakota v. Wayfair case. The ruling removed the long-standing ruling that companies must have some level of physical presence before states could compel them to collect sales tax for sales in their respective states. It allowed for states to set economic nexus thresholds that could be used in determining when companies are required to register and collect sales tax.

Since then, all states that have sales tax have adopted similar standards. The threshold in South Dakota was \$100,000 in sales or 200 individual sales transactions in a year. Some of the states have used this standard, but many have set other levels. There is no uniformity on what is included in revenue (for example, some states exempt sales for resale and/or exempt sales). It is important that companies review their level of sales activities in all states and determine if they are now liable to collect sales tax in additional states.

If your out-of-state sales qualify for an exemption, it is important that you have completed exemption certificates on file.

Companies with a physical presence (employees, inventory, property, or rent) continue to have nexus and are required to collect sales tax on taxable sales.

### **Local Tax Changes**

Minnesota requires registration and collection of all local sales tax if you are registered to collect state sales tax.

Transit Sales & Use tax effective January, 2022 in the following county:

- Roseau County .5%

Washington County Transit Tax increased to .5% effective October 1, 2021

Minnesota Sales Tax Fact Sheet 164 provides additional information. Access this Fact Sheet at: <https://www.revenue.state.mn.us/sites/default/files/2020-08/FS164.pdf>