

December 2023

Dear Valued Client,

The attached information has been gathered to ensure your Payroll reporting season goes smoothly. This includes information needed for 2023 year-end reporting and 2024 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 in order 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 2023 forms W-2, W-3, 1099-NEC and 1099-MISC. These forms must be filed by January 31, 2024. **It is important to organize your information and provide it to us as soon as possible.** We cannot guarantee completing the forms by the deadline if information is received after January 23, 2024. 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 with making the computations, preparing the documents or answering questions you may have regarding these issues.

Sincerely,



Boyum Barescheer

<p><i>YEAR-END EMPLOYER NEWSLETTER</i> <i>DECEMBER 31, 2023</i></p>

2023 W2 and 1099 REPORTING

Mileage Rate

The IRS allowed standard business mileage rate was 65.50 cents for 2023. The 2024 calendar year standard mileage rate is yet to be announced by IRS.

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 2023 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.

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.

401(k)s, SEPs and SIMPLE IRA Limits

Maximum elective deferrals for 401(k)s and SARSEPs is \$22,500 in 2023 (\$23,000 in 2024) plus \$7,500 catch-up contribution if age 50 or over (\$7,500 in 2024). Simple IRAs are limited to \$15,500 in 2023 (\$16,000 in 2024) plus \$3,500 catch-up (\$3,500 in 2024). IRAs are limited to \$6,500 in 2023 (\$7,000 in 2024) plus \$1,000 catch-up.

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. Under the Secure Act 2.0, many changes have been made to retirement plan limits and eligibility. Please see the section below titled "SECURE Act 2.0".

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). Form 1099 requires a telephone number of the issuer on the recipient's copy allowing that person to contact them if they have questions. 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. *Third-party payment networks must file Form 1099-K with the IRS when the gross payment amount exceeds \$20,000 and the number of transactions with a payee exceeds 200.*

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 **and enter the social security number of the taxpayer NOT the disregarded entity's EIN.**

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 28th for paper filings or March 31st for electronic filings. Recipient copies must be mailed by January 31, 2024.

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, 2024. 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, 2024 (March 31, 2024 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 those 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.

2024 FILING AND WITHHOLDING RATES

Payroll Withholding Deposits Due Dates

In most cases, the due dates of tax deposits remain the same for 2024. 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 semi-weekly 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).

Tax Withholding on Bonuses

A flat federal rate of 22% can be used for supplemental wages paid separately from regular wages in most situations. If your bonus exceeds \$1 million, the flat rate is 37%. 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).

Social Security and Medicare Wage Limits and Rates

Below is a table reflecting the W-2 wage levels and the applicable Social Security and Medicare tax rates for 2023 and 2024:

	<u>2023</u>	<u>2024</u>
Social Security wage limit	\$160,200	\$ 168,600
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		

2024 Minimum Wage Changes

Minnesota Minimum wage rates will be adjusted for inflation on Jan 1, 2024 to **\$10.85**/hour for large employers with annual gross revenues are \$500,000 more and **\$8.85**/hour for small employers with annual gross revenues are less than \$500,000.

Since January 1, 2023, the minimum wage in city of Minneapolis was \$15.19/hour for large employers with more than 100 employees and will increase to account for inflation every subsequent January 1st. The minimum wage for the large employers is expected to increase to **\$15.57**/hour January 1, 2024. Smaller employers (100 or fewer employees) continue paying at least \$14.50/hour until July 1, 2024 at which time it will increase to match large business at **\$15.57**/hour.

City of St. Paul has increased minimum wage effective January 1, 2024, to \$15.57/hour for macro businesses who has more than 10,000 employees. Effective July 1, 2024, large businesses will have a minimum wage of \$15.57/hour with 101-10,000 employees, \$14/hour for small businesses with 6-100 employees and \$12.25/hour for micro businesses with 5 or fewer employees.

For your understanding, please see the charts below:

State of Minnesota Minimum Wage		
Provision	Since Jan. 1,2023	Effective Jan. 1, 2024
Large-employer wage with annual gross revenues more than \$500,000	\$10.59	\$10.85
Small-employer wage with annual gross revenues less than \$500,000	\$8.63	\$8.85
90-day training wage (under 20 years of age)	\$8.63	\$8.85
Youth wage (under 18 years of age)	\$8.63	\$8.85

City of Minneapolis Minimum Wage		
Provision	Since	Effective
Large-employer wage with more than 100 employees	1/1/23 \$15.19	1/1/24 \$15.57
Small-employer wage with 100 or fewer employees	7/1/23 \$14.50	7/1/24 \$15.57

City of St. Paul Minimum Wage		
Provision	Since	Effective
Macro business More than 10,000 employees	1/1/23 \$15.19	1/1/24 \$15.57
Large business 101-10,000 employees	7/1/23 \$15.00	7/1/24 \$15.57
Small businesses 6-100 employees	7/1/23 \$13.00	7/1/24 \$14.00
Micro business 5 or fewer	7/1/23 \$11.50	7/1/24 \$12.25

Minnesota Unemployment

The wage base for 2024 for each Minnesota employee subject to Minnesota Unemployment Tax is \$42,000. The rate varies from a base of .1% to as high as 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 full name, address and Social Security number. The address is Minnesota New Hire Reporting Center, P.O. Box 64212, St. Paul, Minnesota

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 1st for coverage to be terminated the following January 1st. 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.

SALES AND USE TAX UPDATES

Marketplace Fairness Act

Almost all 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 is 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 each state and need to file zero returns or register for non-reporting status.

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.

Cannabinoid Products and Sales Tax

All cannabinoid products that contain CBD or THC are subject to Minnesota sales tax.

COVID-19 and Telecommuters

From March 12, 2020 to June 30, 2022, Minnesota did not seek to establish nexus for business income tax or sales and use tax solely because an employee was temporarily telecommuting due to the COVID-19 pandemic. After July 1, 2022, any telecommuters would establish nexus in MN. Any products sold or services rendered in MN will have sales taxes to MN based on products' delivery addresses and where the services are being performed.

New Metro Regional Taxes Effective October 1, 2023

Starting October 1, 2023, there was an .25% metro region housing tax and a .75% metro region transportation tax added on sales and purchases in the seven-county metro area to include Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington counties.

Local Tax Changes

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

To find new local sales tax listing, look here: <https://www.revenue.state.mn.us/local-sales-tax-notice>

MINNESOTA'S EARNED SICK & SAFE LEAVE

Effective January 1, 2024, Minnesota's Earned Sick and Safe Leave (ESSL) law takes effect. All employers, regardless of size, are required to comply. You will need to coordinate with your payroll provider to ensure that you are meeting the notice and reporting requirements. The Minnesota Department of Labor and Industry is responsible for enforcing the ESST requirements and provide useful information and sample employee notices on their website: [Earned sick and safe time | Minnesota Department of Labor and Industry \(mn.gov\)](#).

The following are just a few highlights and is not intended to cover all aspects of the new law:

- Any employee that works at least 80 hours in a year for an employer in Minnesota is covered, including temporary and part-time employees
- Hours do not need to accrue when the employee is not working (i.e. on vacation or out sick) but they do accrue on over-time hours worked
- Amounts available for use in addition to amounts used each pay period must be listed on the employee's paystub
- Employees earn 1 hour of sick and safe time for every 30 hours work with a maximum of 48 hours per year unless the employer agrees to a higher amount
- Employees can use earned sick and safe time as it accrues
- Sick and safe time is paid at the same hourly rate an employee earns when they are working
- Employers must provide employees with a notice by Jan 1, 2024 or at the start of employment and include the notice in the employee handbook (if you have one)
- Employers' existing leave policies may already fully or partially meet the requirements
- Businesses subject to ESSL local ordinances must follow the ESST requirements that are most favorable to their employees
- ESSL hours start accruing on 1/1/24 or the employee's first day of employment
- Accruals can be capped at 80 hours
- Hours can be front loaded. See the DOL FAQ's for options under this method

Refer to the DOL for permissible uses for sick and safe leave

MINNESOTA'S PAID FAMILY AND MEDICAL LEAVE

Governor Walz signed the Paid Family and Medical Leave Act in May of 2023. This Act will entitle workers to up to 12 weeks a year with partial pay to care for a newborn or a sick family member, and up to 12 weeks to recover from their own serious illness. Benefits will be capped at 20 weeks a year for employees who take advantage of both. The benefits will initially be funded by the state's general fund. Going forward, premiums of 0.7% will be assessed on taxable wages. Employers may charge a maximum ½ of this rate to their employees through wages deduction and employers with fewer than 30 employees will have a reduced premium calculation and grant eligibility to cover costs for temporary workers to substitute for an employee on PFML. The premium collection and the benefit availability are scheduled to start **January 1, 2026**. There are several important responsibilities for employers to complete before the start date:

- Starting in mid-2024, most Minnesota employers will be required to submit a wage detail report, which will detail the quarterly wages received and hours worked for each employee.
- Starting in late 2025, employers must notify their employees about the program. The PFML program will provide language for this notification.
- Starting in January 2026, employers will be required to submit any premium payments due.

SECURE 2.0 Act of 2022

The SECURE Act 2.0 introduced by Congress in 2022 contained dozens of provisions. We have highlighted 12 of the SECURE Act 2.0 Sections that we think are most relevant to you.

Section 101, Expanding automatic enrollment in retirement plans. Requires 401(k) and 403(b) plans to automatically enroll participants in the respective plans upon becoming eligible (employees may opt-out though). The initial automatic enrollment is at least 3% but not more than 10%. Each year after the amount is increased by 1% until it reaches at least 10%, but not more than 15%. All current 401(k) and 403(b) plans are grandfathered. There is an exception for small businesses with 10 or fewer employees, new businesses (i.e. those that have been in business for less than 3 years), church plans, and governmental plans. Section 101 is effective for plan years beginning after December 31, 2024.

Section 102, Modification of credit for small employer pension plan startup costs.

Previously, employers with no more than 100 employees, are eligible to receive a 3-year tax credit of 50% of costs, up to \$5,000. SECURE 2.0 increases this credit to 100% of qualified start-up costs for employers with up to 50 employees. It remains 50% for employers with 51-100 employees. Adds an additional credit for eligible employer contributions of up to \$1,000 per each employee who earns less than \$100,000. The full credit applies to employers with 50 or less employees and phases out for employers with between 51 and 100 employees. 100% in first two years, then 75%, 50%, 25% in next three years. Effective January 1, 2023.

Section 107, Increase in age for required beginning date for mandatory distributions (RMDs). Under current law, participants are generally required to begin taking distributions from their retirement plans at age 72. The policy behind this rule is to ensure that individuals spend their retirement savings during their lifetime and not use their retirement plans for estate planning purposes to transfer wealth to beneficiaries. The SECURE Act of 2019 increased the required minimum distribution beyond age ~~to~~ 72. Section 107 further increases the required minimum distribution age further to 73 starting on January 1, 2023 – and increases the age further to 75 starting on January 1, 2033.

Section 108, Indexing IRA catch-up limit. Under current law, the limit on IRA contributions is increased by \$1,000 (not indexed) for individuals who have attained age 50. Section 108 indexes such limit and is effective for taxable years beginning after December 31, 2023.

Section 109, Higher catch-up limit to apply at age 60, 61, 62, and 63. Under current law, employees who have attained age 50 are permitted to make catch-up contributions under a retirement plan in excess of the otherwise applicable limits. The limit on catch-up contributions for 2022 is \$7,500, except in the case of SIMPLE plans for which the limit is \$3,000. Section 109 increases these limits to the greater of \$10,000 or 50 percent more than the regular catch-up amount in 2025 for individuals who have attained ages 60, 61, 62 and 63. The increased amounts are indexed for inflation after 2025. Section 109 is effective for taxable years beginning after December 31, 2024.

Section 110, Treatment of student loan payments as elective deferrals for purposes of matching contributions. Section 110 is intended to assist employees who may not be able to save r retirement because they are overwhelmed with student debt, and thus are missing out on available matching contributions for retirement plans. Section 110 allows such employees to receive those matching contributions by reason of repaying their student loans. Section 110 permits an employer to make matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA with respect to “qualified student loan payments.” A qualified student loan payment is broadly defined as any indebtedness incurred by the employee solely to pay qualified higher education expenses of the employee. Governmental employers are also permitted to make matching contributions in a section 457(b) plan or another plan with respect to such repayments. For purposes of the nondiscrimination test applicable to elective contributions, Section 110 permits a plan to test separately the employees who receive matching contributions on student loan repayments. Section 110 is effective for contributions made for plan years beginning after December 31, 2023.

Section 116, Allow additional nonelective contributions to SIMPLE plans. Current law requires employers with SIMPLE plans to make employer contributions to employees of either 2 percent of compensation or 3 percent of employee elective deferral contributions. Section 116 permits an employer to make additional contributions to each employee of the plan in a uniform manner, provided that the contribution may not exceed the lesser of up to 10 percent of compensation or \$5,000 (indexed). Section 116 is effective for taxable years beginning after December 31, 2023.

Section 121, Starter 401(k) plans for employers with no retirement plan. Section 121 permits an employer that does not sponsor a retirement plan to offer a starter 401(k) plan (or safe harbor 403(b) plan). A starter 401(k) plan (or safe harbor 403(b) plan) would generally require that all employees be default enrolled in the plan at a 3 to 15 percent of compensation deferral rate. The

limit on annual deferrals would be the same as the IRA contribution limit, which for 2023 is \$6,500 with an additional \$1,000 in catch-up contributions beginning at age 50. Section 121 is effective for plan years beginning after December 31, 2023.

Section 125, Improving coverage for part-time workers. The SECURE Act requires employers to allow long-term, part-time workers to participate in the employers' 401(k) plans. The SECURE Act provision provides that – except in the case of collectively bargained plans – employers maintaining a 401(k) plan must have a dual eligibility requirement under which an employee must complete either 1 year of service (with the 1,000-hour rule) or 3 consecutive years of service (where the employee completes at least 500 hours of service). Section 125 reduces the 3 year rule to 2 years, effective for plan years beginning after December 31, 2024. Section 125 also provides that pre-2021 service is disregarded for vesting purposes, just as such service is disregarded for eligibility purposes under current law, effective as if included in the SECURE Act to which the amendment relates. This provision also extends the long-term part-time coverage rules to 403(b) plans that are subject to ERISA.

Section 601, SIMPLE and SEP Roth IRAs. Generally, all plans that allow pre-tax employee contributions are permitted to accept Roth contributions with one exception – SIMPLE IRAs. 401(k), 403(b), and governmental 457(b) plans are allowed to accept Roth employee contributions. Section 601 allows SIMPLE IRAs to accept Roth contributions too. In addition, aside from grandfathered salaried reduction simplified employee pension plans, under current law, simplified employee pension plans (“SEPs”) can only accept employer money and not on a Roth basis. Section 601 allows employers to offer employees the ability to treat employee and employer SEP contributions as Roth (in whole or in part). The provisions in Section 601 are effective for taxable years beginning after December 31, 2022.

Section 603, Elective deferrals generally limited to regular contribution limit. Under current law, catch-up contributions to a qualified retirement plan can be made on a pre-tax or Roth basis (if permitted by the plan sponsor). Section 603 provides all catch-up contributions to qualified retirement plans are subject to Roth tax treatment, effective for taxable years beginning after December 31, 2025. (This was originally set at 2023 but has been extended 2 years) An exception is provided for employees with compensation of \$145,000 or less (indexed).

Section 604, Optional treatment of employer matching or nonelective contributions as Roth contributions. Under current law, plan sponsors are not permitted to provide employer matching contributions in their 401(k), 403(b), and governmental 457(b) plans on a Roth basis. Matching contributions must be on a pre-tax basis only. Section 604 allows defined contribution plans to provide participants with the option of receiving matching contributions on a Roth basis, effective on the date of enactment of this Act.