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EMPLOYMENT TAX ISSUES





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Additional Medicare Tax (AdMT) - Employers

- Applies to tax years beginning after 12/31/2012
- Employers are required to withhold 0.9% AdMT on wages or compensation paid to an employee in excess of \$200,000 in the calendar year
- A new line 5(d) for reporting AdMT withholding was added to Form 941
- The amount withheld will be reported with regular Medicare tax on Form W-2 Box 6





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Additional Medicare Tax (AdMT) - Employee

- Provides for 0.9% AdMT on wages, compensation and self-employment income received above certain threshold amounts
- Thresholds amounts based on filing status
- Threshold amounts:

Married Filing Jointly \$250,000

Married Filing Separately \$125,000

All others \$200,000





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Additional Medicare Tax (AdMT) – Takeaways

- Individuals can't request withholding specifically for AdMT, but may request additional income tax withholding on Form W-4
- Individuals may also need to consider making estimated tax payments
- 2013 – 1040 “True Up”
- TIP – Applies to tips and SE Income if in excess of the applicable threshold amount
- No employer match





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Additional Medicare Tax (AdMT) – Example

- J and L file a joint return.
- J has \$150,000 in wages and L has \$160,000 in wages.
- Neither J's wages nor L's wages are in excess of \$200,000 so there is no withholding by their employers
- However, their combined \$310,000 in wages is more than the \$250,000 threshold for joint filers
- J and L are liable to pay Additional Medicare Tax on \$60,000, or \$540





Form 1099-MISC Compliance

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- Form W-9
- KEY - Secure correct TIN right from the start – easy to say but ...
- Issue Forms 1099-MISC
- IRS CP 2100 or CP 2100A for returns filed with missing or incorrect TINs
- Payer may be required to backup withhold for missing and incorrect name/TINs
- Information return penalties





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Independent Contractor or Employee

Three Categories of Evidence:

- **Behavioral Control:** Instruction, evaluation, training
- **Financial Control:** Investment, method of payment, ability to make a profit or incur a loss, services available to others
- **Relationship of the Parties:** Written contract, permanency, integral part of business





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Independent Contractor or Employee

Tax Court Considerations:

1. Degree of Control
2. Investment in Facilities
3. Options for Profit and Loss
4. Right to Discharge
5. Integral Part of Business
6. Permanency of Relationship





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Voluntary Classification Settlement Program (VCSP)

- Originally released 9/21/2011
- Eligibility expanded January 2013
- Simple application and process
- Audit protection for past years
- Taxpayer agrees to:
 - Prospectively treat a class or classes of workers as employees
- Small payment required – just over 1% of compensation





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VCSP Eligibility

Eligible Businesses:

- Must have consistently treated workers as nonemployees
- Must have filed Forms 1099 for nonemployees for previous three years
- Cannot be under examination by IRS
- Cannot be under examination by DOL or state regarding worker classification
- Can be tax-exempt organization or government entity





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Compliance Focus

1120S Officers' Compensation

- Zero (or very small) wages paid and significant distributable income
- Officer performs significant services
- Employment taxes reduced or eliminated
- Case Study: Watson





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Compliance Focus Accountable Plans

- Business Connection - Reg. §1.62-2(d)
- Substantiation - Reg. §1.62-2(e)
- Return of Excess - §1.62-2(f)
- Compliance Issues
 - Travel Reimbursements
 - Tool Reimbursements





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Modernized Electronic Filing (MeF)

- Year Round Filing
- Filing Prior Year and Prior Quarter Forms 941X
- Faster Acknowledgements





What's New on IRS.gov

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Topic	Search Word(s)
Electronic newsletters (payroll providers, small businesses and tax professionals)	e-news
Multimedia center (audio, video and text)	multimedia
Social media (iTunes, podcasts, Twitter, widgets, YouTube and IRS2Go mobile app) *Follow IRS on Twitter @IRSTaxpros	social media
Video portal <ul style="list-style-type: none">- Small business tax compliance priorities- Audit techniques guides- Referring tax avoidance schemes	video portal
Basic tools for tax professionals	basic tools
E-Services – Online tools for tax pros	eservice
Tax information for tax professionals	Tax pros
Continuing education for tax professionals	

