

TOP 10 ISSUES

PAYROLL TAX AND FRINGE BENEFITS

Payroll tax issues confront every employer and compliance can be challenging. Below are the top 10 concerns for employers.

Settlement Tax Reporting and Withholding

- 1 Accurate tax reporting and withholding on settlements can help avoid tax exposure at the federal and state levels. This requires the determination of how to allocate the settlement between wage and nonwage income, and consideration of the complexities in reporting attorneys' fees and incentive payments in class action lawsuits.
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Wage Repayments From Clawbacks and the Required Payroll Corrections

- 2 Employment agreements often contain clawback provisions for signing bonuses and other payments in the event an employee does not provide service for a defined period. When an agreement requires an employee to repay some amount to the employer, the employer must determine the correct amount and how to process federal and state payroll corrections.
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Federal and State Payroll Tax Audits

- 3 The IRS and state taxing authorities, especially in New York and California, audit employers for correct income tax withholding. The audit process is complex and, when mistakes are found, the assessed taxes, penalties, and interest can be severe.
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Internal Payroll Tax Reviews for Compliance With State and Federal Laws

- 4 Payroll noncompliance can sometimes occur, but alert employers can manage exposure by identifying issues prior to a payroll tax audit. Reviewing payroll practices periodically can prepare employers to defend an audit and mitigate risk through retroactive corrections and enhanced prospective compliance.
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Fringe Benefit Taxation

- 5 Employers often provide various fringe benefits to attract and retain the best talent. It is important for employers to analyze the tax implications and payroll tax reporting requirements associated with each fringe benefit.
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Executive Compensation Tax Withholding Compliance

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Withholding, deposit, and reporting requirements for executive compensation arrangements, like equity and deferred compensation, can present challenges to employers. Noncompliance can result in a time-consuming and expensive correction process as well as additional taxation, interest, and penalties for executives.

Payroll Tax Due Diligence During Mergers and Acquisitions

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A potential buyer may want to perform a thorough payroll tax due diligence review to quantify exposure due to any tax noncompliance, including worker misclassification issues. Any exposure attributable to the failure to comply with payroll tax rules can significantly impact the valuation of the target entity.

Tax Withholding Issues for Visa Employees

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Complex tax withholding rules and reporting requirements apply to employees on temporary visas. Employers should consider analyzing withholding and associated reporting requirements when hiring employees on temporary visas to avoid cumbersome payroll correction procedures.

Payroll Tax Issues for Mobile Employees

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Employees may inadvertently create payroll tax withholding obligations when traveling and working in multiple jurisdictions, either domestically or internationally. Employers should consider identifying those employees, allocating their wages to each jurisdiction, and withholding appropriately in order to ensure payroll tax compliance for those employees.

IRS Forms W-2, 1099, and 1095-C Reporting Requirements

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Employers frequently struggle to timely furnish accurate Forms W-2, 1099, and 1095-C to workers and the IRS. Filing these forms after the deadline can result in penalties and disgruntled workers, but submitting a technical statement of reasonable cause to the IRS may reduce any penalties assessed.

*The information contained in this document should not be relied upon or construed as legal advice.

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