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MEMORANDUM

Date: January 2009

To: Our Clients

Enclosed is relevant payroll and business tax information for 2009. Please review the enclosed memo and let us know if you have any questions. For your convenience, we have included web links to relevant payroll information and forms. The web links are the blue, underlined text throughout this document.

[2009 Payroll Tax Deposit Requirements](#)

[S & C Corporations - Fringe Benefits and Payroll Reporting Requirements](#)

[1099/DE 542 Information Returns](#)

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Unless expressly stated otherwise, (1) nothing contained in this mailing was intended or written to be used, can be used by any taxpayer or may be relied upon or used by any taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer under the Internal Revenue Code of 1986, as amended, (2) any written statement contained in this mailing relating to any Federal tax transaction or matter may not be used by any person to support the promotion or marketing of or to recommend any Federal tax transaction(s) or matter(s) addressed in this mailing, and (3) any taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor with respect to any Federal tax transaction or matter contained in this mailing. No one, without our express prior written permission, may use any part of this mailing in promoting, marketing or recommending an arrangement relating to any Federal tax matter to one or more taxpayers. Furthermore, it may not be shared with any other person without our prior written consent other than as required by law or by ethical rules. However, this prohibition on sharing this mailing does not preclude you from sharing with others the nature of this information.

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PAYROLL TAX DEPOSIT REQUIREMENTS

Electronic Funds Transfers

Federal

You must make electronic deposits of all depository taxes (which includes employment, excise and corporate income taxes) using the Electronic Federal Tax Payment System (EFTPS) in 2009 if:

- Your total deposits of depository taxes in 2008 were more than \$200,000 or
- You were required to use EFTPS in 2008 or any prior year

If you are required to make deposits by electronic funds transfer and fail to do so, you may be subject to a 10 percent penalty. Taxpayers who are not required to make electronic deposits may voluntarily participate in EFTPS. For information on EFTPS, call (800) 555-4477, or visit the EFTPS Web Site at www.eftps.gov.

California

The timeliness of your EFT payment is determined by the settlement date (the date funds are credited to the State's bank account). For Next Banking Day deposits, a timely settlement date is considered to be the second business day following your deposit due date. For Semiweekly, Monthly, and Quarterly deposits, a timely settlement date is considered to be the next business day following your deposit due date. All deposits must be submitted by 3pm on the day before the tax is due.

You must make electronic deposits of all your State Unemployment Insurance (SUI), Employment Training Tax (ETT), State Disability Insurance (SDI), and Personal Income Tax (PIT) withholding payments using the California Electronic Funds Transfer (EFT) if:

- Your average tax deposit (per payment) for Disability Insurance (DI) and Personal Income Tax (PIT) withholding was \$20,000 or more during the prior state fiscal year (July 1, 2007- June 30, 2008) or
- You were required to deposit by California EFT in prior years.

Failure to remit by EFT may result in a noncompliance penalty of 10 percent of the amount remitted, plus interest. Employers who have met the requirement in the preceding calendar year are still required to pay via EFT and will not be issued a new notice. For more information on the EFT program, please call the EFT Helpline at (916) 654-9130, fax (916) 654-7441 or visit the EDD website at www.edd.ca.gov.

Payment by Credit Card

If you are a mandatory electronic depositor, a credit card payment does not satisfy the requirement.

Federal

Employers who are **not** required to make EFTPS payments can now pay the balance due shown on Forms 940 and 941 by credit card. The fees for paying with a credit card range from \$3.95 per transaction to 2.49% of the amount charged. For more information on paying your taxes with a credit card, visit the IRS website at www.irs.gov.

California

You may use EZPAY to make DE 88 payroll tax deposits. It is accessible by phone at (800) 2PAY-TAX or (800) 272-9829 or online at www.officialpayments.com. The fee for paying by credit card is 2.5% of the amount charged.

FRINGE BENEFITS AND PAYROLL REPORTING REQUIREMENTS

Fringe benefits, such as personal use of a company automobile and health insurance for more than 2% shareholder of an S corporation, must be included in employee's W-2 wages. Please call us or see [Publication 15-B](#) for additional information on fringe benefits.

All the fringe benefits, except health insurance premiums, are generally subject to FICA, FUTA, SDI, SUI and ETT and income tax withholding. Business expense reimbursements must be reported on the Form W-2 (box 1) if the employee does not account to you (i.e. does not furnish receipts or other evidence) for these expenses. If you reimburse your employee a per diem or other fixed allowance that exceeds the government specified rates, you must include the excess portion of the reimbursement in box 1 of Form W-2 and the amount equal to the applicable government specified rate in box 12, labeled code "L".

For more information on preparing W-2s and taxable fringe benefits, please call us or see [Publication 393](#).

Fourth quarter and year end payroll tax returns, including W-2s, are due February 2nd. Please call us if you have any questions regarding these filings.

1099/DE 542 - INFORMATION RETURNS

If you have a trade or business, obtain a Taxpayer Identification Number (TIN) and address from each outside contractor at the time you engage his or her services. A [Form W-9](#) can be used to request this information from a payee. Payers may establish a system to allow payees to submit Form W-9 electronically, including fax. If possible, re-verify their current address at the end of the year. Contractors who refuse to furnish the requested information may be subject to 28% backup withholding, along with federal penalties of \$50 for each failure to furnish requested information and state penalties.

If the answers to the following questions are “yes”, and the payment is not specifically excluded as listed below, then a Form 1099-MISC will generally be required.

1. Was the payment for a service, including the use of money or property?
2. Was the service provided to a person or entity engaged in a trade or business? (Note that this includes LLCs and partnerships).
3. Were the total payments (including services and reimbursed expenses) to the payee \$600 or more during the calendar year (\$10 or more for non-trade or business interest, dividends and royalties?)

Excluded payments:

1. Payments reportable to corporations (except attorneys and physicians – see note below).
2. Distributions or salaries to partners shown in the partnership return.
3. Bills paid for merchandise, telegrams, telephone, freight, storage, etc.

Note: All payments to attorneys, regardless of amount, must be reported on a Form 1099-MISC. If the payment is for a lawsuit settlement, payment by insurance company, or payment by government agency, gross proceeds must be reported. Payments to physicians that total at least \$600 must be report on a Form 1099-MISC. You should obtain a TIN from any attorney or physician you pay in 2008, even if the law firm or physician is a corporation. Visit www.irs.gov for more information.

The due date for these information returns is February 2nd for the recipient and March 2nd for the Internal Revenue Service. If you file Forms 1099, 1098, or W-2G electronically, the due date for filing with the Internal Revenue Service is March 31st.

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Penalties may be assessed if the returns are incorrect, not timely filed, or not timely distributed. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each failure. A higher penalty of \$500 may be imposed for intentional disregard.

All California filers of Form 1099 need to file their Form 1099s with the Internal Revenue Service Center at the address listed below.

Department of the Treasury
Internal Revenue Service Center
Kansas City, MO 64999

Both the IRS and FTB can disallow deductions in excess of \$599 when 1099 forms have not been filed.

California businesses must report individuals who are independent contractors and who are subject to federal Form 1099 reporting requirements to the EDD each year. The information provided to the EDD will increase child support collection by helping to locate parents who are delinquent in their child support obligations.

Report independent contractor information on the Report of Independent Contractor(s) [Form \(DE 542\)](#) within 20 days of either making payments totaling \$600 or more, or entering into a contract for \$600 or more with an independent contractor in any calendar year, whichever is earlier. The threshold for requiring reporting is \$600 on an aggregate basis. Service-recipients who are not registered with the EDD can report the required information using their TIN. The EDD may assess a penalty of \$24 for each failure to comply within the required time frames. For more information call EDD at (916) 657-0529 or for a list of frequently asked questions please go online at www.edd.ca.gov. Fax the completed form DE 542 to (916) 319-4410 or file at the address listed below.

Employment Development Department
P. O. Box 997350, MIC 96
Sacramento, CA 95899-7350

If you would like us to prepare your Form 1099s and/or DE 542s, please have your completed information submitted to us by January 20th so that we can complete the Form 1099s by February 2nd. We will also be happy to answer questions, provide assistance or supply forms to any of our clients who choose to prepare their own Form 1099s or DE 542s.

CITY OF LOS ANGELES BUSINESS LICENSE

The City of Los Angeles requires that you file a Business Tax Application when you start a business in the city or move your business within the city limits. If you already have a business license on file with the City of Los Angeles you should receive a 2009 Business Tax Renewal Form. The renewal form is due on March 2, 2009. If you have not filed with the City of Los Angeles you can obtain an application by calling the Office of Finance at (213) 473-5901 or going online at www.lacity.org/finance.

New businesses are required to file an application by the same date as the Business Tax Renewal Form, March 2, 2009. For more information please go online at www.lacity.org/finance.

Continuing in 2009:

Note: To qualify for the following exemptions, you must timely file your annual tax renewal form by March 2, 2009, no exceptions.

New Business Exemption: A new business that applies for a business license in a timely manner (by the last day of the month following the month of incorporation) and has less than \$500,000 in gross receipts will be exempt from the business tax for the first two years of operation. This exemption does not apply to those in the construction business or film production.

Small Business Exemption: Applies to small businesses with gross receipts less than \$100,000.

Creative Artist Exemption: A creative artist whose activities are primarily for entertainment and/or aesthetic purposes is exempt from paying tax for gross receipts up to \$300,000 resulting from creative activities.

Inside vs. Outside City of LA income: There are special rules regarding income earned inside versus outside the City of Los Angeles. Please call us if you have questions regarding this issue as it might reduce your liability.

E-file: You may e-file your renewal with the City of Los Angeles through their website. The following web link will take you directly to the e-file page. [City of Los Angeles Renewal E-file](#)

For a list of frequently asked business tax questions for the city of Los Angeles please go online at www.lacity.org/finance.

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Please note that Los Angeles is only one of many cities that require a business license for operating within the city limits. The following web links are to other local cities that require a business license for operating within the city limits. This list is not all inclusive. Please call us if you have questions regarding the filing requirements in your city. If you are not sure whether your business should have a license or if you have any questions, please call us to discuss.

- Santa Monica www.smgov.net/finance
- Burbank www.burbank.ca.us/finance
- Culver City www.culvercity.org/finance.
- Pasadena www.pasadena.ca.us/finance

HOUSEHOLD EMPLOYERS

There are special considerations regarding withholding of payroll taxes available for household employers. Please call us if you have any questions regarding these special considerations.

Please refer to [EDD Publication DE 8829](#) or [EDD Publication DE 231Q](#) for more information on the filing requirements for household employers.

WINNINGHAM BECKER & COMPANY 2009 PAYROLL TAX DEPOSIT REQUIREMENTS

		<u>Rate</u>	<u>Maximum Wage</u>	<u>Maximum Tax</u>
<u>Employee:</u>	SDI	1.1 %	\$ 90,669.00	\$ 997.36
	FICA (Social Security)	6.2 %	\$ 106,800.00	\$ 6,621.60
	FICA (Medicare)	1.45 %	NO MAXIMUM	NO MAXIMUM
<u>Employer:</u>	SUI & ETT	VARIES	\$ 7,000.00	VARIES
	FUTA	0.8 %	\$ 7,000.00	\$ 56.00
	FICA (Social Security)	6.2 %	\$ 106,800.00	\$ 6,621.60
	FICA (Medicare)	1.45 %	NO MAXIMUM	NO MAXIMUM
<u>Self-Employed:</u>	Social Security	12.4 %	\$ 106,800.00	\$ 13,243.20
	Medicare	2.9 %	NO MAXIMUM	NO MAXIMUM

DEPOSITOR TYPE NOTIFICATION: The IRS should have notified you if you are a "Monthly Depositor" or a "Semi-weekly Depositor." If they did not, add your total federal payroll tax liability for the twelve months ended June 30, 2008. If the total liability is greater than \$50,000, you are a "Semi-weekly Depositor." Otherwise you are a "Monthly Depositor."

FEDERAL DEPOSIT RULES (Form 941):

MONTHLY DEPOSITOR:

<u>Tax</u>	<u>Deposit Rule</u>	<u>Deposit Due</u>
Federal withholding + employee and employer Social Security + employee and employer Medicare (Form 941)	\$2,500.00 to \$99,999.99 accumulated tax liability at end of month. If total is \$100,000 or more, see (A) below. If less than \$2,500 for the entire quarter, see (B) below.	By 15th of next month.

SEMIWEEKLY DEPOSITOR:

<u>Tax</u>	<u>Deposit Rule</u>	<u>Deposit Due</u>
Federal withholding + employee and employer Social Security + employee and employer Medicare (Form 941)	If you pay wages on a Wed., Thurs. or Fri. and the accumulated tax liability on Fri. is \$2,500.00 to \$99,999.99. If the total liability reaches \$100,000.00, see (A) below. If total is less than \$2,500.00, see (B) below.	By 3 banking days from Friday. (Generally the following Wed.)
	If you pay wages on a Sat., Sun., Mon., or Tues. (See (A) & (B) below for exceptions).	By 3 banking days from Tuesday. (Generally the following Friday)

SPECIAL RULES (EITHER METHOD):

<u>Tax</u>	<u>Deposit Rule</u>	<u>Deposit Due</u>
(A) Federal withholding + employee and employer Social Security + employee and employer Medicare (Form 941)	\$100,000 or more accumulated tax liability at the end of any day. If a monthly depositor accumulates a \$100,000 employment tax liability on any day, the taxpayer becomes a semi-weekly depositor on the next day and remains so for the calendar year and the following calendar year.	By next banking day.
(B) Federal withholding + employee and employer Social Security + employee and employer Medicare (Form 941)	Less than \$2,500.00 accumulated tax liability at the end of the quarter.	No deposit due. Pay with Form 941.

FUTA DEPOSIT RULES (Form 940):

\$500.00 or more accumulated tax liability at end of quarter	By last day of the month following the end of the quarter, unless required to make electronic deposits.
\$500.00 or less accumulated tax liability at end of quarter	Due by January 31. Pay with Form 940

Your California deposit requirements will be the same as Federal. Please call if you have any questions regarding these deposit requirements.