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MEMORANDUM

Date: February 2018

To: Our Clients

This memo contains updated business tax information for 2018. Please review the information provided and let us know if you have any questions. For your convenience, we have included web links to relevant payroll information and forms.

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NEW IN 2018

The following items are new for 2018 (also see “Fringe Benefits” for additional items)

New withholding tables

The 2018 withholding tables incorporate changes to the individual tax rates based on tax legislation enacted December 22, 2017. Employers should implement the new tables as soon as possible but not later than February 15, 2018.

Social security tax

The social security wage base limit has been increased to \$128,400.

Federal Unemployment Tax Act (FUTA)

As of January 1, 2018, the FUTA tax rate remains at 6.0%. This tax applies to the first \$7,000 you pay to each employee as wages during the year. You can take a credit of up to 5.4% against your FUTA tax for amounts paid into state unemployment funds. Because California has not repaid money it borrowed from the federal government to pay unemployment benefits, California has a reduced credit of 3.3%. In 2017, the reduced credit increased your net FUTA rate to 2.7%. If California fails to repay the federal government in 2018, the credit is scheduled to decrease by another .3%, however, any additional FUTA tax owing as a result of the credit reduction will not be due until the following January.

New city and state minimum wage ordinances

Beginning July 1, 2018 the minimum wage in the City of Los Angeles will increase to \$13.25 for employers with 26 or more employees (vs. the state minimum of \$11.00 effective January 1, 2018) and to \$12.00 for employers with 25 or fewer employees (vs. the state minimum of \$10.50). The minimum wage is scheduled to increase each year until 2022. If you have employees outside the City of Los Angeles, you should check your city's rules.

Beginning in 2018 - withholding on supplemental wages that exceed \$1 million

The federal withholding rate on supplemental wages that exceed \$1 million paid to any one employee during the calendar year has been lowered to 37% (22% if under \$1M).

REMINDERS FOR 2018

Due date for Forms W-2, W-3, and 1099-MISC

Both paper and electronically filed 2017 Forms W-2 and W-3 must be filed with the Social Security Administration (SSA) by January 31, 2018. Both paper and electronically filed 2017 Form 1099-MISC (Box 7 – Nonemployee compensation) must be filed with the IRS by January 31, 2018. Otherwise, 1099s must be filed by February 28, 2018 if filing on paper or by March 31, 2018 if filing electronically.

Due date for partnership, LLC and C corporation returns

Effective for tax years beginning after December 31, 2015.

- Partnerships (and LLCs taxed as partnerships), as well as S corporations, must file their returns by the 15th day of the third month after the end of the tax year (previously partnerships were required to file by the 15th day of the *fourth* month after the end of the year). For calendar year partnerships this means the due date is now March 15th, the same as for calendar year S corporations.
- C corporations generally must file by the 15th day of the fourth month after the end of the tax year (previously corporations were required to file by the 15th day of the *third* month after the end of the year). For calendar year C corporations, this means the due date is now April 15th. However, for C corporations with fiscal years ending on June 30, the filing date continues to be the 15th day of the third month after the end of the tax year.
- Single-member LLCs must file their returns according to the due date of the owner (i.e. if owned by an individual or a C corporation (excluding June year-end C corporations), the due date is the 15th day of the fourth month after the end of the tax year; if owned by a partnership, S corporation, or June year-end C corporation, the due date is the 15th day of the third month after the end of the tax year)

California Paid Sick Leave

The Healthy Workplaces, Healthy Families Act now requires all California employers to provide at least 3 days of paid sick leave to all employees who work 30 or more days in California, including part-time and temporary employees. Beginning in 2018, the City of Los Angeles requires all employers to provide 6 days of paid sick leave.

Social security tax

The employee and employer tax rate for social security remains unchanged at 6.2%.

The Medicare tax rate is 1.45% each for the employee and employer, unchanged from 2017. There is no wage base limit for Medicare tax.

Social security and Medicare taxes apply to the wages of household workers you pay \$2,100 or more in cash or an equivalent form of compensation (up \$100 from 2017).

Additional Medicare Tax withholding

In addition to withholding Medicare tax at 1.45%, you must withhold a 0.9% Additional Medicare Tax from wages you pay to an employee in excess of \$200,000 in a calendar year. You are required to begin withholding Additional Medicare Tax in the pay period in which you pay wages in excess of \$200,000 to an employee and continue to withhold it each pay period until the end of the calendar year. Additional Medicare Tax is only imposed on the employee. There is no employer share of Additional Medicare Tax. All wages that are subject to Medicare tax are subject to Additional Medicare Tax withholding if paid in excess of the \$200,000 withholding threshold. For more information on Additional Medicare Tax, visit [IRS website](#).

Same-sex marriage

For federal tax purposes, marriages of couples of the same sex are treated the same as marriages of couples of the opposite sex. The term “spouse” includes an individual married to a person of the same sex. However, individuals who have entered into a registered domestic partnership, civil union, or other similar relationship that isn’t considered a marriage under state law aren’t considered married for federal tax purposes. For more information, see Revenue Ruling 2013-17, 2013-38 I.R.B. 201, available at www.irs.gov/irb/2013-38_IRB/ar07.html.

Change of responsible party

Continuing in 2018, any entity with an employer identification number (EIN) must file Form 8822-B, Change of Address or Responsible Party — Business, to report the latest change to its responsible party. Form 8822-B must be filed within 60 days of the change. For a definition of “responsible party,” see the [Form 8822-B instructions](#).

California – Secretary of State Filing

The Secretary of State’s office no longer sends renewal forms for the Statement of Information filings for corporations. You will receive a postcard in the mail approximately 90 days prior to the filing deadline.

Do not overlook or discard your annual postcard reminder. The filing due date is based on your original incorporation or formation date.

Most corporations and LLCs can file their Statement of Information online at <http://www.sos.ca.gov/business-programs/bizfile/>. LLC’s must file bi-annually and corporations file annually. LLC’s and other businesses that choose to file by mail can print the applicable forms at <http://www.sos.ca.gov/business-programs/bizfile/>

Los Angeles – Filing Business Personal Property Statements

Businesses located in the County of Los Angeles are required by law to file a Business Property Statement by April 1st if the aggregate cost of business personal property is \$100,000 or more for the previous year. Personal Property is all property owned or leased by a business which includes, but is not limited to:

- Machinery
- Computers
- Equipment
- Telephones
- Furniture
- Supplies

If you fail to mail the Business Property Statement by May 7th, you may be subject to a 10% penalty. For more information, visit <http://assessor.lacounty.gov/personal-property-assessments-2/>. Other California counties have similar filing requirements. Check with your local county assessor for more information.

PAYROLL TAX DEPOSIT REQUIREMENTS

Electronic Funds Transfers

Federal

You must use electronic funds transfer to make all federal tax deposits (such as deposits of employment tax, excise tax, and corporate income tax), if your tax liability in the current quarter is over \$2,500. Generally, electronic fund transfers are made using the Electronic Federal Tax Payment System (EFTPS). Payroll services or another trusted third party who makes deposits on your behalf is an acceptable form of electronic funds transfer.

If you fail to make a timely electronic deposit, you may be subject to a 10% failure-to-deposit penalty. EFTPS is a free service provided by the Department of Treasury. For more information or to enroll in EFTPS, call 1-800-555-3453 or visit the EFTPS website at <https://www.eftps.gov/eftps/>.

If you fail to initiate an EFTPS deposit transaction by 5pm PST the day before the deposit is due, you can still make your deposit on time by using the Federal Reserve Bank Services at: <http://www.frbservices.org/fedwire/>

California

You must make electronic deposits for all 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, 2016 - June 30, 2017) 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% of the amount remitted. 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 or to enroll in EFT, call the EFT Helpline at (916) 654-9130 or visit the EDD website at: http://www.edd.ca.gov/payroll_taxes/Electronic_Funds_Transfer.htm

The timeliness of your EFT payment is determined by the settlement date (the date funds are credited to the State's bank account). All deposits must be submitted by 3 pm PST on the day before the tax is due.

Payment by Credit Card

A credit card payment does not satisfy the electronic funds transfer requirements for payroll tax deposits. Amounts not properly deposited may be subject to a 10% penalty for failure to deposit through electronic funds transfer.

Federal

Employers who are **not** required to make EFTPS payments can pay the balance due shown on Forms 940 and 941 by credit card through a list of IRS e-pay service providers. The fees charged by service providers are based on the amount of the payment and may vary by provider. For more information on paying your taxes with a credit card, visit the IRS website at <http://www.irs.gov/uac/Electronic-Payment-Options-Home-Page>

California

You may use the Official Payments website to make DE 88 payroll tax deposits. The fee for paying by credit card is 2.3% of the amount charged. It is accessible online at www.officialpayments.com or by phone at 1-800-2PAY-TAX (1-800-272-9829).

FRINGE BENEFITS AND PAYROLL REPORTING REQUIREMENTS

The health flexible spending arrangement (FSA) limit increases to \$2,650 for 2018.

You can exclude up to \$5,250 of educational assistance you provide to an employee under an educational assistance program each year (unchanged from 2017).

You can exclude up to \$13,840 of adoption assistance you provide to an employee in 2018 (up \$270 from 2017) under an adoption assistance program.

Repealed: Beginning in 2018, employees can no longer exclude qualified moving expense reimbursements.

Cents-per-mile rule. The business mileage rate for 2018 is \$ 0.545 cents per mile. You may use this rate to reimburse an employee for business use of a personal vehicle, and under certain conditions, you may use the rate under the cents-per-mile rule to value the personal use of a vehicle you provide to an employee.

Qualified parking exclusion and commuter transportation benefit. For 2018, the monthly exclusion for qualified parking increased to \$260 and the monthly exclusion for commuter highway vehicle transportation and transit passes increased to \$260. However, beginning in 2018, the employer deduction is fully disallowed.

Enacted: Employer tax credit for employers providing paid family and medical leave. Beginning in 2018, an employer that offers at least two weeks of annual paid family and medical leave, as described by the Family and Medical Leave Act (FMLA), to all "qualifying" full-time employees (and a proportionate amount of leave for non-full-time employees) will be entitled to a tax credit. The paid leave must provide for at least 50% of the wages normally paid to the employee. "Family and medical leave" does not include leave provided as vacation, personal leave, or other medical or sick leave.

Beginning in 2018, the employee's exclusion and employer's deduction for employee achievement awards will not apply to cash, gift coupons/certificates, vacations, meals, lodging, tickets to sporting or theater events, securities, and "other similar items." However, an employee can still exclude (and an employer can still deduct) the value of other tangible property and gift certificates that allow the recipient to select tangible property from a limited range of items pre-selected by the employer.

Repealed: Employer deduction for entertainment, amusement and recreation provided to employees. Previously, an employer could fully deduct expenses for recreational, social, or similar activities primarily for the benefit of non-highly compensated employees, provided such activities directly related to the active conduct of the employer's business. Beginning in 2018, this deduction is fully disallowed.

Partially Repealed: Employer deduction for meals, food and beverages provided to employees. Previously, an employer could fully deduct any food and beverage expense that could be excluded from an employee's income as a de minimis fringe benefit.

Beginning in 2018, there will be a 50% limitation on the deduction for food and beverages that can be excluded from an employee's income as a de minimis fringe benefit, including expenses for the operation of an employee cafeteria located on or near the employer's premises.

REMINDERS:

Information Employers Are Required to Furnish on Paystubs. California Labor Code Sec. 226 spells out the information employers are required to provide on a paystub. If the required information is not provided, nor adequately provided (i.e. missing some information), then the employer may be assessed a \$50 penalty for a first-time offense, followed by a \$100 penalty for each subsequent offense.

Reporting New Hires. DE 34 must be filed with the Employment Development Department to report new employees within 20 days of hire. http://www.edd.ca.gov/pdf_pub_ctr/de34.pdf

1099 - INFORMATION RETURNS

If you have a trade or business, you should 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 by fax. If possible, re-verify the payee's current address at the end of the year. Contractors who refuse to furnish the requested information are subject to 24% federal backup withholding and 7% California backup withholding, along with federal and state penalties for each failure to furnish requested information.

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 (including LLCs and partnerships) engaged in a trade or business?
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 made 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, telephone, freight, storage, etc.

Note: All payments greater than \$599 to attorneys, 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 are greater than \$599 must be reported on a Form 1099-MISC. You should obtain a TIN from any attorney or physician you pay, even if the law firm or physician is a corporation. Visit www.irs.gov for more information.

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 for each failure. A higher penalty may be imposed for intentionally providing false statements.

All California filers of Form 1099 need to file their Form 1099 electronically with the Internal Revenue Service Center or 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 for services in excess of \$599 when 1099 forms have not been filed for those vendors.

DE 542 - INFORMATION RETURNS

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 http://www.edd.ca.gov/pdf_pub_ctr/de542.pdf) within 20 days of either making payments totaling \$600 or more, or entering into a contract with an independent contractor for \$600 or more, whichever is earlier. The threshold for 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 penalty for failure to file timely reports is \$24 per contractor. For more information call the EDD at (916) 657-0529 or for a list of frequently asked questions please go online at <http://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 as soon as possible. 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 2018 Business Tax Renewal Form. The renewal form and payment are due on **February 28, 2018**. If you have not filed with the City of Los Angeles you can obtain an application by calling the Office of Finance at (844) 663-4411 or going online at <http://finance.lacity.org/>.

New businesses in 2018 are required to file an application by the last day of the month following the month operations began in the City of Los Angeles. For more information please go online at <http://finance.lacity.org/>.

Continuing in 2018:

Note: To qualify for the following exemptions, you must timely file your annual tax renewal form by February 28, 2018, 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 operations commence) may be exempt from the business tax for the first two years of operation. The exemption for the second year will apply if the first year's gross receipts are less than \$500,000. This exemption does not apply to those in the construction business or film production. (Note: this exemption will expire with the 2019 Business Tax Renewal for businesses that begin in 2018).

Small Business Exemption: Small businesses with gross receipts less than \$100,000 are exempt from paying tax.

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

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 <http://finance.lacity.org/online-business-tax-renewal-e-filing-instructional-walk-through>.

For a list of frequently asked business tax questions for the city of Los Angeles: <http://finance.lacity.org/business-tax-information-faq>

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 some 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 or if you are not sure whether your business should have a license.

- Beverly Hills <http://www.beverlyhills.org/business>
- Burbank <http://www.ci.burbank.ca.us>
- Culver City <http://www.culvercity.org/Government>
- Pasadena <https://ww5.cityofpasadena.net/finance/>
- Santa Monica <http://www.smgov.net/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 the following for more information on the filing requirements for household employers.

EDD Publication DE 8829 at:
http://www.edd.ca.gov/pdf_pub_ctr/de8829.pdf

EDD Publication DE 231L at:
http://www.edd.ca.gov/pdf_pub_ctr/de231l.pdf

You can find these on the EDD website at:
http://www.edd.ca.gov/payroll_taxes_electronic_filing_registration_and_payment.

USE TAX REGISTRATION REQUIREMENTS

The law requires many businesses that do not currently hold a seller's permit to register with the Board of Equalization (BOE) and report and pay by April 15, any use tax due from purchases made in the preceding year.

Use tax is imposed on tangible personal property that is used, consumed, or stored in this state. Use tax applies to purchases from out-of-state vendors who are not required to collect tax on their sales. Any purchase made from out of state vendors and brought into California to be used, stored or consumed is subject to use tax if California sales tax was not paid at the time of purchase. This includes, but is not limited to, internet purchases and purchases made while traveling in other states or countries.

The BOE has been sending letters to taxpayers, informing them of the registration requirement. Taxpayers with at least \$100,000 in business gross receipts who are not already registered with the BOE, and do not hold a seller's permit, should receive the letter. If you receive one of these letters, you will be asked to verify your contact information, and then the BOE will register you.

Once registered, the BOE will send you an account number and log-in information so that you can e-file your returns.

If you receive one of these letters, please contact us so we can verify whether you meet the registration requirements. If you do not, we will respond to the BOE, letting them know you are not required to register. If you do, we can assist with the registration process and the filing of your annual use tax returns.

If there is no activity in your account for three years, the account will become inactive.

Note: Individuals are also subject to use tax and are required to pay the use tax when they file their California income tax return.

WINNINGHAM BECKER & COMPANY
2018 PAYROLL TAX DEPOSIT REQUIREMENTS
(Applicable from January 1, 2018 to December 31, 2018)

		<u>Rate</u>	<u>Maximum Wage</u>	<u>Maximum Tax</u>
<u>Employee:</u>	SDI	1.00 %	\$ 114,967	\$ 1,149.67
	FICA (Social Security)	6.20 %	\$ 128,400	\$ 7,960.80
	FICA (Medicare) under 200K	1.45 %		
	FICA (Medicare) over 200K	2.35 %	NO MAXIMUM	NO MAXIMUM
<u>Employer:</u>	SUI & ETT	VARIES	\$ 7,000.00	VARIES
	FUTA	0.60 %	\$ 7,000.00	\$ 42.00
	FUTA – Credit reduction States (CA)	<i>Amount to be determined</i>	\$ 7,000.00	<i>Amount to be determined</i>
	FICA (Social Security)	6.20 %	\$ 128,400.00	\$ 7,960.80
	FICA (Medicare)	1.45 %	NO MAXIMUM	NO MAXIMUM
<u>Self-Employed:</u>	Social Security	12.40 %	\$ 128,400.00	\$ 15,921.60
	FICA (Medicare) under 200K	2.90 %		
	FICA (Medicare) over 200K	3.80 %	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, 2017. 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
\$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.