

# 2014 Annual Year-End Payroll and Tax Information

Are you involved in an S Corporation? See page 2 for special reporting requirements.

Will you be paying \$36,500/employee in excise tax? See page 3 for details.

## Form W-2: Your Employees' Year-End Wage and Tax Statements

Each year, the IRS publishes the *“General Instructions for Forms W-2 and W-3”*. This booklet includes specific, line-by-line instructions for the preparation of these forms. To access the entire 2014 publication, go to: <http://www.irs.gov/pub/irs-pdf/iw2w3.pdf>. The following hints may assist you:

- It is **very important** that your employee’s wages are reported under the correct name and taxpayer identification number. The name on the W-2 should match the employee’s name as it appears on their social security card to ensure that wages are credited to them.
- **Box 3, Social Security Wages** includes wages and fringe benefits subject to social security withholding, but not more than the maximum wage base for 2014 of \$117,000.
- **Box 10, Dependent Care Benefits** should include the total amount of dependent care benefits under Section 129 paid or incurred by you for an employee. Include the total value of employer-provided or employer-sponsored day care facilities and amounts paid or incurred under a Section 125 plan. Any amount exceeding \$5,000 must be included in boxes 1, 3, 5 and 16.
- **Box 12 reporting:** A number of items are required to be reported in box 12. Each item must be referenced with a code letter as provided in the instructions. Please refer to the instructions for all of the codes that apply. Some of the more common items to be reported in box 12 are:
  - **Code C** – The taxable cost of group-term life insurance provided to your employee for coverage over \$50,000. This is often referred to as “excess group-term life insurance coverage.” There are tables based on age to determine the dollar amount that must be included in the employee’s wages for this benefit. Please contact us if you need this information.
  - **Code D** – The elective deferral to a section 401(k) plan or a deferral under a SIMPLE retirement account that is part of a section 401(k) arrangement.
  - **Code F** – The elective deferral to a section 408(k)(6) salary reduction SEP.
  - **Code S** – Employee salary reduction contributions to a section 408(p) SIMPLE retirement account.
  - **Code DD** – The cost of employer-sponsored health care coverage, this amount is not taxable. Reporting this amount is optional for employers who filed less than 250 W-2s in the preceding calendar year; or for W-2s provided to employees who are terminated before the end of the calendar year (and request, in writing, their W-2 before the end of the year). Reporting will remain optional until the IRS issues additional guidance.
- **Box 13 – The “Retirement Plan”** box should be checked if the employee was an active participant (for any part of the year) in a qualified pension, profit-sharing, SIMPLE, SEP or stock bonus plan. **An employee may be an active participant even if they did not contribute to a company sponsored plan depending on your plan requirements.**
- **Box 13 – The “Statutory Employee”** box should be checked for an employee whose earnings are subject to social security tax but not subject to federal income tax withholding. Contact us for more information regarding statutory employees.
- **Box 14, Other** is designated for certain items included in wages, which can include personal use of a business automobile and shareholder health insurance.



# Special Reporting for Employer-paid Insurance Benefits

## S-CORPORATIONS:

The following insurance items need to be included in an S corporation shareholder's W-2:

- Health insurance, including Medicare premiums, paid directly by an S corporation, or reimbursed to the shareholder by December 31st, for a 2% or more shareholder who is also an employee. It is not subject to social security, Medicare or unemployment taxes.

*If you are a 2% or more shareholder that pays for health insurance outside of the company, please have the company reimburse you for the expense BEFORE DECEMBER 31st so the business can take the deduction.*

*If you have 20 or more full-time equivalent employees (FTEs) Medicare premiums cannot be paid directly or reimbursed by the company. Please contact our office if you have questions related to calculating your FTEs or reimbursement of Medicare premiums.*

- If the company funds a Health Savings Account for a shareholder, the amount funded is included in the employee's W-2 and is treated the same as health insurance. All amounts should be reported separately in Box 14 of the W-2 as well.
- All group-term life insurance paid for a 2% or more shareholder must be included in gross compensation and is subject to all taxes except federal withholdings and unemployment tax.
- Any life insurance payments made by the company where the beneficiary is not the company. This is subject to all applicable taxes.
- Any disability insurance payments made by the company. This is subject to all applicable taxes.
- Any long-term care insurance paid by the company. This is treated the same as health insurance.
- If the company provides a Section 125 Cafeteria Plan for its employees, a 2% or more shareholder may NOT participate in the plan.

## ALL EMPLOYERS:

The following insurance items need to be included for employees, including C corporation shareholders:

- Health insurance paid by an S corporation for the spouse, children, grandchildren and/or parents of a 2% or more shareholder who are also employees. This is not subject to social security, Medicare or unemployment taxes.
- Medicare premiums **cannot be paid directly or reimbursed by the company** for employers with 20 or more full-time equivalent employees (FTEs).
- Group-term life insurance with coverage in excess of \$50,000 paid by the company must be included in gross compensation and is subject to social security and Medicare tax, federal withholding is optional. The amount to be reported is based on IRS tables and should be included in Box 12, Code C.
- Any Health Savings Account amount funded by the employer for the employee's benefit up to \$3,300 for self-only coverage and \$6,550 for family coverage is included in Box 12, Code W.

**If you are using a third-party payroll service provider**, it is your responsibility to make sure you provide the insurance information that must be included in the W-2. More importantly, it's critical that the provider accounts for the insurance payments properly. If the insurance amounts are not included, or if they are not treated correctly, the reports will need to be amended. The typical cost of amending the payroll reports is \$100 per form.

*If the S corporation health insurance is not included on the W-2, the entire expense will not be deductible on the income tax return for the business or the individual.*

*We encourage you to call us with any questions you may have regarding the information in this newsletter or any other matter. Any items in **red** are new for this year.*





## Q & A – Our Most Frequently Asked Questions

**Q: Our pay period ends on December 31st, but we won't be paying our employees until January 2, 2015. Do we include these wages in the 2014 W-2s?**

A: No, the W-2s should include only the wages paid in 2014. The IRS considers the pay date, not the pay period in determining when wages are reportable.

**Q: We would like to give our employees nominal bonuses for Christmas. Do we have to include this in our employees' wages and is it subject to taxes?**

A: Yes, you do need to include this bonus in the employees' wages and withhold taxes on it. The IRS considers gifts, including gift cards, to be compensation.

**Q: Someone told me that I don't have to send a W-2 form to an employee if I paid them less than \$600. Is this true?**

A: No, regardless of the amount paid, you must send a W-2 to any employee where any amount of social security, Medicare and/or income taxes were withheld.

**Q: Is it permissible to hand-write Forms W-2 or 1099?**

A: While it is not required that you type either of these forms, the IRS does encourage you to type them and asks that they be legible, in black ink and that you do not use dollar signs, commas, ampersands or other symbols, whether they are typed or hand-written.

**Q: We sent a Form W-2 to an ex-employee and it came back. What should we do?**

A: If you are unable to deliver a Form W-2, you are required to retain the form for four years.

**Q: Do I send my federal copies of the W-2s to the IRS?**

A: No. Federal copies of the W-2s should be sent to:  
**Social Security Administration  
Data Operations Center  
Wilkes-Barre, PA 18769-0001**

If you are sending the W-2s by certified mail, change the zip code to 18769-0002.

### Filing Due Dates

#### By 2/2/15

- Mail/distribute W-2s, copies B, C and 2 to employees
- Mail/distribute Form 1099, copy B to recipients
- File Forms 941 or 944, 940, Arizona quarterly withholding and unemployment tax reports
- File Form 945 (Pension tax deposits and 1099 backup withholding)

#### By 3/2/15

- File Form W-3 along with copy A of the W-2s with the Social Security Administration
- File Form 1096, along with copy A of the 1099s with the Internal Revenue Service (**Please note, you must file a separate 1096 for each different type of Form 1099 submitted.**)
- File Form A1-R, along with copy 1 of the W-2s with the Arizona Department of Revenue (for W-2s with Arizona wages)

#### By 3/31/15

- File Forms W-2, W-3, 1099 and 1096 **only if you file electronically**

Due dates may vary with other states; please check with those particular states for filing deadlines and form requirements.

## Cash Payments Received

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Any person in a trade or business who receives more than \$10,000 cash in a single transaction (or in related transactions) must file Form 8300 with the Internal Revenue Service within 15 days after receiving the cash, and be sure to keep a copy of the form for at least five years from the date of filing. Related transactions are any transaction between a buyer (or an agent of the buyer) and a seller that occur within a 24-hour period. You must treat these transactions as one transaction and report the payments on Form 8300. In addition, if the transactions occur more than 24 hours apart and *you know, or have reason to know*, that each one is in a series of connected transactions, this also must be reported on Form 8300. The \$10,000 “cash” is not limited to currency alone. The term cash also includes certain cashier’s checks, bank drafts, traveler’s checks and money orders that you receive in your trade or business. There is a minimum penalty of up to \$25,000 for the willful failure to file Form 8300.

## Employee’s Use of a Company-Owned Vehicle = W-2 Wages

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If an employee uses a company vehicle for personal use, **which includes commuting to and from work**, the employer must include an amount for personal use in the employee’s W-2 at year-end.

If **HBL CPAs, P.C.** prepares your payroll reports, please include the automobile information needed to calculate personal use with your year-end payroll information. If you wish to compute the additional compensation resulting from the personal use of a company vehicle, please contact our office, and we will be happy to provide you with the spreadsheet to calculate.

Please note: If you are reimbursing employees for business use of a personal vehicle for either actual expenses submitted or up to the federal standard mileage rate for 2014 of 56 cents per mile, then **NO** reporting of that reimbursement is required.

## Payroll Nexus

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As an employer, if you have employees traveling out of state for business purposes, you need to be aware of any nexus (presence) issues that may arise. For example, if your employee travels to California to visit a customer, California views that as business occurring within their state. They will require you to withhold California income tax from your employee and remit it to them, as well as file California payroll tax and business income tax returns.

## DOL has Tool for Calculating Overtime Pay

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The U.S. Department of Labor provides the FLSA Overtime Calculator Advisor, which helps employers and workers understand and calculate overtime pay. This Advisor computes the amount of overtime pay based on information it gathers from the user. The Overtime Calculator Advisor can be accessed on the internet at [www.dol.gov/elaws](http://www.dol.gov/elaws). Choose FLSA Overtime Calculator Advisor under the “All elaws Advisors” menu in the lower left corner.

## Reasonable Compensation

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As part of its business expenses, a corporation can pay its owners/officers a reasonable amount for salaries and other compensation for personal services performed on behalf of the corporation. Just what constitutes a reasonable amount has probably resulted in more disagreements between taxpayers and representatives of the IRS than any other question affecting the deduction, and in each instance the taxpayer has the burden of overcoming the IRS's determination as to what is a reasonable amount. As a general rule of thumb, the amount of salary and benefits that a corporation would have to pay to an unrelated employee to perform the same functions that are currently being performed by the owner/officer, would be considered reasonable compensation for the owner/officer.

## Other Important Information

### 2015 Social Security and Medicare Taxes

The rates for social security and Medicare taxes will remain at **6.2% and 1.45%, respectively**; additionally, the limit for social security wages will increase to \$118,500, for a maximum tax liability of \$7,347.00 for both the employee and the employer. There is no limit on Medicare wages. The Additional Medicare Tax withholding of 0.9%, for a total Medicare withholding rate of 2.35%, on wages paid in excess of \$200,000 will remain in effect. This additional tax is imposed only on the employee, the employer is not required to match this additional amount.

### 2015 Standard Mileage Rate

The IRS has not yet announced the standard mileage rate for business auto use in 2015.

### Arizona Sales Tax – Important Reminder

If your sales tax liability is greater than \$1,000,000 annually, you are required to make an estimated tax payment for June. The payment must be either 50% of the actual May liability or the liability for June 1st through 15th. The payment must be made with Form TPT-ES and is due June 20th of each year.

### FUTA Rate

Employers who pay their state unemployment tax timely and in full receive a 5.4% credit against the FUTA rate of 6.0%, resulting in a net FUTA rate of 0.6%. However, the Social Security Act requires a reduction in the FUTA tax credit when a state has outstanding federal loans for two consecutive Januarys. The reduction in the FUTA tax credit is 0.3% for the first year and an additional 0.3% for each succeeding year until the loan is repaid. States with outstanding federal loans that originated in 2012 or earlier are subject to the credit reduction in 2014. To see if your state (including the Virgin Islands) is subject to a credit reduction in 2014, go to <http://www.ncsl.org/research/labor-and-employment/state-unemployment-trust-fund-loans.aspx>. If your state is subject to the credit reduction and/or you are a multi-state employer, you must include Schedule A with Form 940 when submitting to the IRS. Arizona will not be subject to the credit reduction in 2014.

### FUTA Benefit Cost Rate Add-on Credit Reduction

The BCR Add-on credit reduction takes effect when a state has had outstanding federal loans for five consecutive Januarys. The computation for calculating this credit reduction is based on various unemployment statistics. Arizona will not be subject to this additional credit reduction in 2014.

### Limitations to Section 125 Plans

For tax years beginning after December 31, 2012, a Flexible Spending Account (FSA) that is part of a Section 125 plan must have a maximum contribution limit of \$2,500 in order for it to be considered a qualified benefit. If the plan does not have this limit, then an employee who has withholding reductions in excess of \$2,500 will be subject to tax on distributions taken from the plan.

### Arizona Minimum Wage

Effective January 1, 2015, the minimum wage is \$8.05 for non-tipped employees and \$5.05 for tipped employees.

*Forms that need to be completed by new and rehired employees in Arizona*

- Form W-4 – federal withholding, to be completed by the employee
- State withholding, if applicable – to be completed by the employee (Form A-4 in Arizona)
- Form I-9 – used by the employer for E-Verify, to be completed by the employee
- New Hire Reporting Form – to be completed and submitted by the employer



## Withholding on Pension Distributions

Internal Revenue Service rules require a mandatory 20% federal tax withholding on distributions from pension and profit-sharing plans of a participant's entire account balance of \$200 or more *if the payment is made directly to the participant*. You must report this tax on Form 945. Substantial penalties will be assessed for the failure to withhold taxes and the failure to file this return.

If your plan made **any distributions** during 2014, Form 1099-R must be provided to the recipients.

## Using a Third-Party Payroll Provider

The decision to outsource payroll processing to a third-party service, such as ADP or Paychex, can save businesses time and money. However, these providers do not always handle all aspects of the payroll cycle. The ultimate responsibility for the accuracy, completeness, and timeliness of reporting and paying wages and taxes remains with the employer.

Some of the more common misconceptions about providers' services include:

1. **E-verify** – Most do not perform or offer this service. E-verify is required in Arizona for all new employees, and in some circumstances for re-hires.
2. **New Hire Reporting** – Some do not automatically handle but offer this as an additional service, typically with an additional fee attached. New Hire Reporting is required in all 50 states.
3. **Workers Compensation Coverage** – This is offered by most providers, but is not part of the basic service package and does carry an additional fee. Most states require workers compensation coverage even for employers with just one employee.
4. **Taxable Fringe Benefits** – Employers should educate themselves about the tax effects of all benefits offered to employees to ensure benefits are properly reported to the payroll provider for inclusion in the annual reporting, including Form W-2. Many benefits are not permitted by the IRS to be provided tax free; see IRS Publication 15-B at [www.irs.gov](http://www.irs.gov) for more information.
5. **Obtaining Tax Identification Numbers and State Tax Registrations** – Though some providers will offer to handle this on behalf of new employers, it is best to request our guidance. Payroll providers will complete only the forms necessary for payroll registration, but many states have other registration requirements as well.

Employers should read their payroll service contracts carefully to verify that all expected and necessary services are covered.

## E-Verify

E-Verify is a system sponsored by the US Dept. of Homeland Security that allows employers to determine the eligibility of new employees to work in the United States. This system is accessed via the internet, and in many cases the use of E-Verify is voluntary. Employers in Arizona, however, are **required** to determine eligibility of employees under a law that went into effect January 1, 2008.

Additionally, effective September 8, 2009, employers with federal contracts or subcontracts that contain the Federal Acquisition Regulation (FAR) E-Verify clause are required to use E-Verify to determine eligibility for employment.

For more information regarding E-Verify, please visit the website at [www.uscis.gov/](http://www.uscis.gov/).

## Federal and State New Hire and Rehire Reporting

Federal and state laws require employers to report new hire and re-hires. This information must be reported within 20 days after the employee is hired. Some states may allow employers to provide a copy of the person's legible W-4 form for reporting purposes (be sure to write the employee's hire date and the employer's name, address and EIN in an available blank space). New and rehire reporting is required in all 50 states, as well as Washington DC and various US territories. For more information, go to <http://www.sba.gov/content/new-hire-reporting-your-state>. In Arizona, this information is submitted to the Arizona Department of Economic Security (DES).

## Information for Payroll Tax Deposits/Payments

Employers are classified by the IRS as being either **monthly** or **semiweekly** depositors. Each November, the IRS mails out notifications to employers of their deposit status for the coming year. It is, however, the employer's responsibility to determine the proper payment method. Relying on the IRS letter without personally verifying it could cause problems.

The requirement for depositing payroll taxes, monthly vs. semiweekly, is calculated using a "look back" period. For calendar year 2015, the "look back" period is July 1, 2013 through June 30, 2014. To calculate, add up the total payroll tax liability for that period (taxes withheld and the employer portion of FICA). If this total is \$50,000 or less, the deposits should be made using the **monthly** method. The tax liability for each calendar month will be due on or before the 15th day of the following month.

If the total is more than \$50,000, the deposits must be made using the **semiweekly** method. The tax liability for each pay date will be due as follows:

- If your **pay date** is on Wednesday, Thursday or Friday, your tax deposit is due by the following Wednesday.
- If your **pay date** is on Saturday, Sunday, Monday or Tuesday, your tax deposit is due by the following Friday.

Exceptions to this rule are: (1) if your taxes are less than \$2,500 for the entire quarter, then no deposits are necessary and the taxes may be paid with Form 941 when filed; or (2) if your tax liability is \$100,000 or more for any day during a deposit period, the deposit is due by the **next banking day**. Under this rule, if the depositor is a monthly depositor, they immediately become a semiweekly depositor for the remainder of the calendar year and for the next year.

The **Arizona Department of Revenue** measures deposit frequency using the average Arizona withholding tax for the preceding four quarters (or number of quarters in business if less than four).

When the average tax for the preceding four quarters is less than \$1,500 per quarter, Arizona withholding is due on a quarterly basis with Form A1-QRT. Remittances should be postmarked no later than the last day of the month succeeding the end of the quarter.

When the average tax for the preceding four quarters is more than \$1,500 per quarter, Arizona payments are due on the same due dates as the federal tax deposits and are remitted with Form A1-WP.

If you are an employer in a state other than Arizona, check with that state for their regulations, or **HBL CPAs, P.C.** can research it for you upon request.

## Workers Compensation Insurance

*This article is a representation of the laws and statutes of the State of Arizona. If you are an Arizona employer and would like more information on points presented in this article please go to [www.copperpoint.com](http://www.copperpoint.com). If you are an employer in another state, [www.workerscompensationinsurance.com](http://www.workerscompensationinsurance.com) provides links to workers' compensation law for all fifty states.*

In virtually every state, workers compensation insurance is mandatory on businesses for at least some classification of employee. In Arizona, fines for failing to maintain insurance can reach \$10,000, and the Industrial Commission of Arizona has the right to close the business until insurance is established. Assets of the employer may be at risk if a judgment is brought against a business that did not carry proper coverage. In addition to employees, independent contractors may also require coverage.

If you are a public or private employer in Arizona with at least one employee you must carry workers compensation insurance; exceptions are domestic servants, working partners and sole proprietors. For these classes of workers, coverage is optional. All premiums must be paid entirely by the employer; the law prohibits the cost being deducted from employees' wages.

There are special rules for corporate officers (including minimum and maximum wage limitations), partners and sole proprietors who are actively working in the business. These groups are covered automatically as employees under the law unless they choose to

reject coverage. The decision to reject coverage must be made freely and voluntarily as rejectors forfeit their rights to receive benefits provided by the law in the event of injury or death by accident arising out of and in the course of employment.

*What happens if an employer doesn't have coverage and an employee gets hurt?*

Workers compensation provides benefits to the injured party by paying for medical expenses, disability, rehabilitation and, in the case of death, payments to survivors.

If an employee is injured and the employer doesn't have coverage, the employer would be liable for all of the applicable payments. Additionally, if a part-time employee is injured, the employer would also be liable for any lost wages from the employee's other job(s).

If employees travel out of state, the workers compensation policy needs to specify the necessary states. Otherwise, the insurance carrier may not provide the applicable benefit payments if the employee were to become injured while in another state.

Please keep in mind that a workers compensation policy is separate from an employer's liability policy. Check with your insurance provider to make sure that you are covered.



## IRS Telephone Numbers

- (800) 829-4933 – Questions on filing Forms 940 and 941
- (800) 555-4477 – EFTPS Hotline
- (800) 829-4933 – Employer Identification Number Requests
- (866) 455-7438 – Information Return Reporting Program Customer Service
- (800) 829-1040 – Social Security Tax Questions

## Online Service Provided by the IRS

- **TIN (Taxpayer Identification Number) Matching** – this free service allows payers and/or authorized agents to verify TIN and name combinations prior to filing Form 1099 (version B, DIV, INT, MISC, OID and PATR). This can alleviate some of the headache and worry when you receive a notice from the IRS stating that Form 1099-MISC was filled out incorrectly. To get started, go to <http://www.irs.gov/> and search for “e-Services”. Please note this service would be most beneficial to large businesses (over 250 information returns) as the application process can be cumbersome.

## Online Service Provided by the Social Security Administration (SSA)

- **BSO (Business Services Online) Suite of Services** – this free service allows employers to electronically file their W-2s with the SSA. Additionally, it allows employers to view any errors related to their W-2 submissions. For more information, go to <http://www.socialsecurity.gov/bsa/services.htm>

## On the Web...

There is a wealth of information and forms available on the internet. The following websites are very helpful:

Visit our website:  
[www.hblcpa.com](http://www.hblcpa.com)

Internal Revenue Service:  
[www.irs.gov](http://www.irs.gov)

Arizona Department of Revenue:  
[www.azdor.gov](http://www.azdor.gov)

Social Security Administration:  
[www.ssa.gov](http://www.ssa.gov)

U.S. Department of Labor:  
[www.dol.gov](http://www.dol.gov)

E-Verify by U.S. Department of Homeland Security:  
[www.uscis.gov](http://www.uscis.gov)

Arizona Department of Economic Security:  
[www.azdes.gov](http://www.azdes.gov)

City of Tucson:  
[www.ci.tucson.az.us/finance/](http://www.ci.tucson.az.us/finance/)

CopperPoint Mutual Insurance Company:  
[www.copperpoint.com](http://www.copperpoint.com)

Out of State Workers Compensation  
[www.workerscompensationinsurance.com](http://www.workerscompensationinsurance.com)

A search engine for government services with links to all states:  
[www.usa.gov](http://www.usa.gov)



# Independent Contractors vs. Employees

Treating an individual as an independent contractor rather than an employee may seem like a good idea, since it would eliminate the payroll tax burden associated with an employee. However, if an individual is treated as an independent contractor and it is later discovered that they should have been treated as an employee, the employer will most likely be the party responsible for paying all of the payroll taxes.

The IRS has two forms that may be filed to make a determination of independent contractor or employee status. These can work against a business if a worker has been classified incorrectly.

Form SS-8, “Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding”, can be filed by a business prior to hiring someone to determine if the worker would qualify to be classified as an independent contractor. The form can also be filed by the individual when they feel that they should be treated as an employee rather than an independent contractor. This form allows the business and/or the individual to present the factors and reasoning behind the decision to treat an individual as an independent contractor, and the IRS will make a determination of status based on the information presented.

Form 8919, “Uncollected Social Security and Medicare Tax on Wages”, is a form the individual can file with their personal income tax return, either after filing or in conjunction with filing Form SS-8. An individual who believes they were incorrectly classified as an independent contractor and files both of these forms may be excused from paying self-employment taxes by the IRS. Further, the IRS may look to the business to pay those taxes for the individual.

**Are there any problems with treating someone as an independent contractor?** Yes. If an individual is treated as an independent contractor and elects to file the two forms mentioned above, it could potentially cost the employer more money to correct the situation than if the individual had been treated as an employee from the beginning. The potential costs include responsibility for both the employer and employee share of social security and Medicare taxes, federal withholding, unemployment taxes, preparation fees to accountants, penalties and interest. Also, if the IRS determines that the independent contractor should have been treated as an employee, the IRS could take a closer look at the employer’s relationship with other independent contractors.

The IRS created a “Voluntary Classification Settlement Program” that allows employers to voluntarily reclassify independent contractors as employees. The benefit is that this applies to future tax periods with limited federal employment tax liability for past non-employee treatment. Certain eligibility requirements apply; please contact our office for more information.

## How can I prevent this from happening?

1. Consult your attorney regarding a written contract that states the terms of the work to be done and that the contractor will not be treated as an employee. This may help protect employers should any conflicts arise. Additionally, if it is determined that the individual is an independent contractor, have them complete Form W-9.
2. File Form SS-8 with the IRS to determine how an individual should be classified.

**What’s the difference between an employee and an independent contractor?** Employers need to be aware of the type of relationship that will exist with the individuals they hire. Correctly classifying independent contractors and/or employees is one of the keys to avoiding unforeseen expenses. The IRS uses certain criteria to determine whether a person should be classified as an employee or an independent contractor; for example, the “Common Law Rules”:

1. **Behavioral Control** - Does the company control or have the right to control what the worker does and how the worker does his or her job?
2. **Financial Control** - Are the business aspects of the worker’s job controlled by the payer? (This includes how the worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)
3. **Type of Relationship** - Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business?

In addition, the IRS utilizes a list of questions to aid in the determination. This list can be obtained by performing an internet search for “Revenue Ruling 87-41”. If you find that a worker is indeed an independent contractor, **ALWAYS** have them fill out Form W-9 before any payment is remitted.

## Section 530 Relief

Section 530 relieves employers from paying employment taxes on workers who were previously considered independent contractors when the IRS has determined they are employees. This relief is available if:

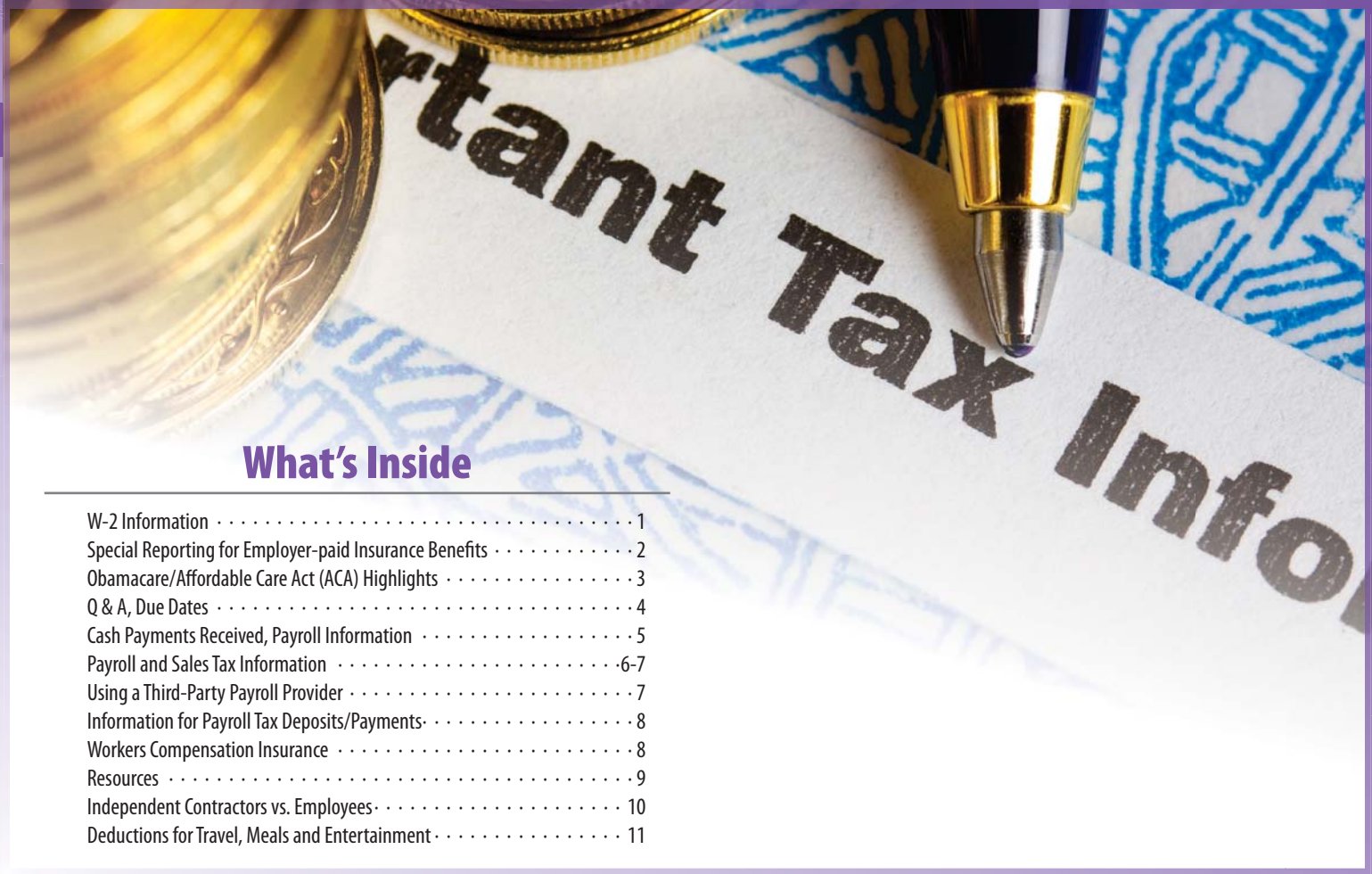
1. The employer had a **reasonable basis** for not treating the worker as an employee.
2. The employer was **consistent** in treating similar workers as independent contractors.
3. The employer **filed Form 1099** for the worker in the applicable years.

For more information, see Publications 15-A and 1779 on the IRS website at [www.irs.gov](http://www.irs.gov).

# Deductions for Travel, Meals and Entertainment

	100% DEDUCTIBLE	50% DEDUCTIBLE	NOT DEDUCTIBLE
<p><b>Business Trips, Conventions and Meetings within the U.S.:</b> (Note: Special rules apply to foreign travel)</p>	<ul style="list-style-type: none"> <li>• Hotel lodging and transportation expenses</li> <li>• Cleaning and laundry</li> <li>• Cost of meeting rooms</li> <li>• Registration fees</li> <li>• Tips (other than for meals and entertainment)</li> </ul>	<ul style="list-style-type: none"> <li>• Meals and entertainment</li> <li>• Tips for meals and entertainment</li> <li>• Business luncheons at a club</li> </ul>	<ul style="list-style-type: none"> <li>• Lavish or extravagant expenses</li> <li>• Luxury water travel</li> </ul>
<p><b>Customer Entertainment:</b></p>	<ul style="list-style-type: none"> <li>• Cost of travel to entertainment events</li> <li>• Entertainment and meals expenses billed to customer, if record provided to customer</li> <li>• Holiday cards and decorations</li> <li>• Food provided to the general public (in nature of advertising)</li> <li>• Business gifts costing less than \$25 per person per year</li> </ul>	<ul style="list-style-type: none"> <li>• Restaurant meals – a member of your business must be present</li> <li>• Night clubs, social events, sporting trips, etc.</li> <li>• Foods at the above events</li> <li>• Tips for meals and entertainment</li> </ul> <p><i>Note: all entertainment requires active business discussion either before, during or after the event</i></p>	<ul style="list-style-type: none"> <li>• Business gifts in excess of \$25 per person per year</li> <li>• Lavish or extravagant expenses</li> <li>• Cost of entertainment facilities</li> <li>• Facility operating costs</li> <li>• Skyboxes – cost in excess of regular non-luxury box seat</li> </ul>
<p><b>Dues:</b></p>	<ul style="list-style-type: none"> <li>• Professional organizations</li> <li>• Business leagues</li> <li>• Trade associations and boards of trade</li> <li>• Chambers of commerce</li> <li>• Real estate boards</li> <li>• Civic organizations</li> <li>• Public service organizations</li> </ul>	<p>Specific business entertainment expenses at clubs (such as the cost of business entertainment meals with customers)</p>	<ul style="list-style-type: none"> <li>• Country clubs</li> <li>• Athletic clubs</li> <li>• Business Luncheon clubs</li> <li>• Social clubs</li> </ul>
<p><b>Employer/Employee Expenses:</b></p>	<ul style="list-style-type: none"> <li>• Meals and entertainment included in employee's compensation</li> <li>• Meals and entertainment included in Form 1099 issued to non-employees</li> <li>• Recreational expenses for non-highly compensation employees</li> <li>• Employees' holiday parties, annual picnic, and athletic teams and expenses</li> <li>• Cash gifts to employees required to be included in compensation</li> <li>• Non-cash gifts to employees – value in excess of \$25 – must be included in compensation</li> </ul>	<p>Meals provided to employees on business premises (exception for certain employer-maintained cafeterias)</p>	





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