

THE SMALLBIZ BUILDER

Planning For Your Dreams



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This Month:

- IRS Will Hold Refunds on EIC and ACTC Until February 15th
 - Are You Paying Yourself Enough?
- New Due Date for Filing Forms W-2/W-3 and Form 1099- MISC.
 - Overtime Laws Are Changing in December

IRS Will Hold Refunds on EIC and ACTC Until February 15th

As a part of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) enacted in December 2015, credits or refunds of tax overpayments will not be released before February 15th to taxpayers claiming the Earned Income Tax Credit (EIC) or Additional Child Tax Credit (ACTC) on their return. The delayed refund is meant to combat identity theft by reducing one of the biggest incentives for filing a falsified tax return, which is the lure of refundable credits.

Are You Paying Yourself Enough?

As the owner of an S corporation, you're probably aware that there's a tax advantage to drawing money out of the corporation as a distribution rather than as wages. The reason is simple. Unlike wages, distributions you take out to the extent of basis in your corporate stock aren't taxable.

Although you, as a shareholder-employee of an S corporation, have flexibility in choosing whether to receive salary payments or cash distributions, the discretion is not unlimited. The IRS can recharacterize distributions as wages if compensation isn't reasonable. How much compensation is "reasonable"? There's no simple formula, but in Publication 535, Business Expenses, the IRS lists several factors in determining reasonable compensation.

There are a number of concrete steps you can take to make it more likely that the compensation you earn will be considered "reasonable" and minimize the potential for IRS reclassification of distributions. As in most tax situations, planning ahead avoids problems later. Contact us if you'd like to discuss this or any other aspect of your compensation strategy.

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New Due Date for Filing Forms W-2/W-3 and Form 1099-MISC.

Now is a great time to verify that you have the correct information for your employees and contractors, so that processing W-2s and 1099-MISCs will flow smoothly in January. The new due date for remitting your W-2s and W-3s to the Social Security Administration is January 31st. An extension for filing W-2s is no longer automatic, but extensions can be requested with Form 8809, *Application for Extension of Time To File Information Returns*.

Government copies of Form 1099-MISC will also be due on January 31st if you're reporting nonemployee compensation payments in Box 7 (this applies to both paper and electronic filing). If there isn't an amount for nonemployee compensation, then Form 1099-MISC will be due on February 28th when filed by paper, or on March 31st if filed electronically. The deadline for issuing copies to the recipient is still January 31st.

There are penalties for failure to file the W-2 or 1099-MISC by their due date, so gather your required information as soon as possible!

Overtime Laws Are Changing in December

The rules for overtime pay are changing and small business owners need to know how these changes will impact their business.

Beginning December 1, 2016, the U.S. Department of Labor (DOL) will require employers to pay their employees overtime pay when they work more than 40 hours in a given week if those employees earn less than \$913 per week (\$47,476 per year). "White collar" workers who meet this salary requirement and perform administrative, executive, or professional duties as defined by the DOL won't be required to be paid overtime. An administrative, executive or professional employee with total annual compensation of at least \$134,004 is exempt without meeting the full duties test. This new rule also allows bonuses and incentive pay to count towards up to 10% of the new salary level.

There are some things you can do now in order to make sure that you're in compliance with the new rules. For starters, take an assessment of your current salaries and job descriptions and determine whether you have any exempt employees who are already earning a salary above (or perhaps nearing) the threshold. You may also need to identify the non-exempt positions and shuffle workers around as necessary.

Your business will have three choices. You can either:

- Increase exempt workers' salaries so that they exceed the new overtime wage base;
 - Leave salaries at current levels and pay overtime for hours over the 40 hours per week threshold; or,
 - Limit workers' hours to less than 40 hours per week so that you never need to pay overtime.
- Alternatively, some businesses can benefit from hiring additional staff and reducing the amount of hours worked by each employee, so that the same amount of work is performed but with less risk of exposure to overtime pay.

It may be that using a combination of the above approaches is the best option. Regardless of which method you use, always be sure to talk with your employees about any changes to their pay before making adjustments. Contact us today to discuss which method works best for your business.

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PADGETT BUSINESS SERVICES® is dedicated to meeting the compliance, profit & financial government reporting and payroll needs of businesses with fewer than 20 employees in the retail and service sector of the economy. This publication suggests general business concepts that may be appropriate in certain situations. It is designed to provide complete and accurate information to the reader. However, because of the complexities of the tax law and the necessity of determining whether the material discussed herein is appropriate to your business, it is important you seek advice from your Padgett office before implementing any of the concepts suggested in this newsletter.



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