

January 2018

Dear Business Client,

This annual client letter has been prepared to inform you of business rules and regulations, both old and new, that may apply to your business and to provide new 2018 limits. Please take time to read through the sections that pertain to you and your business.

You can also view a copy of this annual client letter anytime on our website.

Attached is important information regarding:

- Payroll Regulations
- 1099 Compliance/Independent Contractor Status
- Ordinary and Necessary Business Expenses
- Vehicle Expense and Use
- Limitation on Meals and Entertainment Expenses
- State Sales and Use Tax
- Virginia Business Licenses
- Forms available on our website
- Net Client Portal

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2018 PAYROLL REGULATIONS

1. **COMPUTATION OF FEDERAL PAYROLL TAX LIABILITY.** The federal tax deposit for 2018 is computed as follows:

+ Wages to \$128,400 per employee x 12.4%
 + Total Wages x 2.9% (3.8% on individual wages in excess of \$200,000)
 ± Federal Withholding
 = Federal Deposit Liability

2. **FEDERAL PAYROLL TAX DEPOSIT REGULATIONS (FORM 941).** There are four rules that apply to determine when you are to make your federal tax deposits. New employers are monthly for the first calendar year. Each year after that your status must be redetermined based upon the "Lookback Period" July through June. If you reported **less than \$50,000 employment tax liability** you are a monthly depositor; if you reported **more than \$50,000** you are a semi-weekly depositor.

QUARTERLY DEPOSITOR. IRS allows small businesses with employment taxes of less than \$2,500 per quarter to pay employment taxes with Form 941, Employers Quarterly Federal Tax Return.

MONTHLY DEPOSITOR. If you are a monthly depositor you will make your monthly deposit by the 15th of the following month.

SEMI-WEEKLY DEPOSITOR.	<u>Payroll Paid</u>	<u>Tax Deposit Due</u>
	Wednesday, Thursday, Friday	Wednesday
	Saturday, Sunday, Monday, Tuesday	Friday

\$100,000 ONE-DAY RULE. If your tax liability reaches \$100,000 it must be deposited on the next banking day. Once this rule applies, you will be considered a semi-weekly depositor for the remainder of the year and the next calendar year.

3. **EFTPS REGULATIONS.** All payments for designated Federal taxes **MUST** be made through EFTPS. There is a provision for very small employers to be exempt from this requirement (a very small employer is one that has \$2,500 or less in quarterly taxes).

Failure to make payments using EFTPS could result in a 10% failure-to-deposit penalty. EFTPS is a free service provided by the Department of Treasury. To find out more about EFTPS or to enroll, call 1-800-555-4477 or visit www.eftps.gov.

4. **FORM 944 - Annual employment tax filing for small employers.** To reduce burden on small employers, the Internal Revenue Service (IRS) has designed Form 944 so the smallest employers (those whose annual liability for social security, Medicare, and withheld federal income taxes is \$1,000 or less) will file and pay these taxes only once a year instead of every quarter. In general, if IRS has notified an employer to file Form 944, then the employer must file Form 944 instead of Form 941.
5. **NEW EMPLOYEES.** You are required to report all new employees to the state within 20 days (in most states) of the date of hire.
6. **WAGES SUBJECT TO FICA TAX.** FICA taxes have two components, social security tax and medicare hospital insurance tax. The wages subject to the 6.2% social security tax are \$128,400. There is no limit on wages subject to the medicare tax-**ALL wages are subject to medicare tax.** Medicare is 1.45% on wages to \$200,000 and 2.35% on wages in excess of \$200,000.

PAYROLL REGULATIONS -- CONTINUED

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7. **FEDERAL MINIMUM WAGE.** The federal minimum wage is \$7.25 per hour. Overtime for hours over 40 hours per week is 1½ times regular rate of pay. An employer of a tipped employee is only required to pay \$2.13 per hour in direct wages if that amount combined with the tips received at least equals the federal minimum wage. If the employee's tips combined with the employer's direct wages of at least \$2.13 per hour do not equal the federal minimum hourly wage, the employer must make up the difference.

<u>Tip Credit</u>		<u>Cash Wage</u>		<u>Total Gross Wage</u>
\$5.12	+	\$2.13	=	\$7.25

Small businesses (under \$500,000 income and not involved in interstate commerce) are not covered by the federal minimum wage requirements. However, most states have adopted state minimum wages that apply to businesses exempt from the federal law.

The District of Columbia minimum wage is \$12.50 per hour. The minimum cash wage for a tipped employee in DC is \$3.33 per hour

Virginia minimum wage is \$7.25 per hour, and Maryland minimum wage is \$9.25 per hour. Maryland moves to \$10.10 effective 7/1/2018. Maryland local county rates may be different. The minimum cash wage for a tipped employee in Maryland is \$3.63 per hour; and in Virginia is \$2.13.

Massachusetts minimum wage is \$11.00 per hour. The minimum cash wage for a tipped employee is \$3.75 per hour.

8. **TAX CREDIT FOR RESTAURANTS.** Food and beverage establishments are now allowed a tax credit for the amount of employer FICA tax paid on excess tips (tips in excess of those treated as wages for purposes of satisfying minimum wage). If your establishment has documented excess tips, you will need to provide that information to our office at the end of your tax year to compute your credit.
9. **FORMS W-4 and I-9.** All employees are required to complete Forms W-4 and I-9 when employed. These forms must be retained in your office for all employees. If you need more W-4s or I-9s you can go to our website and get the forms from our LINKS page. Call the state or check our website for state withholding forms.

Employees claiming exempt status on Form W-4 must renew their exempt status by filing a new Form W-4 with their employer by February 15 of each year.

Social Security provides a toll free line to check employee social security numbers/names: 1-800-772-6270.

10. **EARNED INCOME CREDIT.** You are required to notify employees not having income tax withheld that they may be eligible for a tax refund because of the earned income credit (EIC). However, you do not have to notify employees claiming exemption from withholding on Form W-4. You can notify your employees by giving them IRS Notice 797 or Copy C of Form W-2. Copies of IRS Notice 797 can be obtained online at www.irs.gov or by calling 1-800-829-3676.
11. **BONUSES.** All compensation, including holiday bonuses, gifts and awards, is subject to withholding tax.

Special withholding rules apply to bonus and other supplemental payments. Following is a summary of the rules that apply:

Federal - 25%
Virginia - Calculate as if payment were added to regular payroll amount
Maryland - Use lump sum distribution of annual bonus tables
DC - Use daily tables
Massachusetts - Use daily tables

1099 COMPLIANCE

If in the normal course of your business you make payments of \$600 or more for services performed by a non-corporate entity, the payments must be reported to the IRS using Form 1099-MISC, Miscellaneous Income. A non-corporate entity is an individual sole proprietor, partnership or limited liability company (LLC). Form 1099-MISC is not issued for the purchase of product.

What must be reported? Some common examples of reportable payments follow:

Payments to attorneys, physicians, contractors, accounting services, prizes and awards, appraisal services, rent, directors' fees, lab fees, repair services (e.g., auto, building maintenance, computer).

ASK FOR THE TIN. If you make these types of payments for your business, you must obtain a taxpayer identification number (TIN) from each payee, such as a social security number (for an individual and single-member LLC's), or an employer identification number. The payee may provide the TIN orally, in writing, or on a Form W-9, "Request for Taxpayer Identification Number and Certification." If you do not receive a TIN from the payee or you receive a notice from the IRS of an incorrect TIN, you must withhold 28% of each reportable payment.

PAYMENTS TO CORPORATIONS. You do not need to report payments made to corporations for services, except for payments to corporations that provide LEGAL or MEDICAL services. However, do not assume that all businesses are corporations. You may treat a payee as a corporation if the payee's name contains an expression of corporate status, such as "Corporation", "Corp.", "Incorporated" or "Inc.", but not "Company" or "LLC". You may rely on a Form W-9 that states the payee is a corporation or an exempt payee to determine whether information reporting is required.

PENALTIES MAY APPLY. Businesses required to file and provide information returns may be subject to penalties of up to \$530 per return (i.e., per Form 1099) for failure to file timely and correct information returns, and/or for failure to provide timely and correct payee statements. Higher penalties apply to failures due to an intentional disregard of the reporting rules. A penalty of \$530 also applies to anyone refusing to furnish their correct identification number.

WHEN AND HOW TO FILE. Generally, information returns must be provided to payees and to the IRS by **January 31 following the reportable year**. If you file 250 or more information returns, you must file electronically.

REQUIREMENTS REGARDING INDEPENDENT CONTRACTOR STATUS

The relevant facts in considering whether a worker is an independent contractor or an employee fall into three main categories: behavioral control, financial control and relationship of parties. Some state unemployment agencies are taking an aggressive position on employee versus independent contractor status. If you have independent contractors who could be targeted as employees for state unemployment purposes you should have your attorney review their contracts, etc.

BEHAVIORAL CONTROL. Behavioral control refers to facts that show whether there is a right to direct or control how the worker does the work. A worker is an employee when the business has the right to direct and control the worker. The business does not have to actually direct or control the way the work is done – as long as the employer has the right to direct and control the work.

The behavioral control factors fall into the categories of:

- Type of instructions given
- Degree of instruction
- Evaluation systems
- Training

REQUIREMENTS REGARDING INDEPENDENT CONTRACTOR STATUS, CONTINUED

Types of Instructions Given

An employee is generally subject to the business's instructions about when, where, and how to work. All of the following are examples of types of instructions about how to do work.

- When and where to do the work.
- What tools or equipment to use.
- What workers to hire or to assist with the work.
- Where to purchase supplies and services.
- What work must be performed by a specified individual.
- What order or sequence to follow when performing the work.

Degree of Instruction

Degree of Instruction means that the more detailed the instructions, the more control the business exercises over the worker. More detailed instructions indicate that the worker is an employee. Less detailed instructions reflect less control, indicating that the worker is more likely an independent contractor.

Note: The amount of instruction needed varies among different jobs. Even if no instructions are given, sufficient behavioral control may exist if the employer has the right to control how the work results are achieved. A business may lack the knowledge to instruct some highly specialized professionals; in other cases, the task may require little or no instruction. The key consideration is whether the business has retained the right to control the details of a worker's performance or instead has given up that right.

Evaluation System

If an evaluation system measures the details of how the work is performed, then these factors would point to an employee.

If the evaluation system measures just the end result, then this can point to either an independent contractor or an employee.

Training

If the business provides the worker with training on how to do the job, this indicates that the business wants the job done in a particular way. This is strong evidence that the worker is an employee. Periodic or on-going training about procedures and methods is even stronger evidence of an employer-employee relationship. However, independent contractors ordinarily use their own methods.

FINANCIAL CONTROL. Financial control refers to facts that show whether or not the business has the right to control the economic aspects of the worker's job.

The financial control factors fall into the categories of:

- Significant investment
- Unreimbursed expenses
- Opportunity for profit or loss
- Services available to the market
- Method of payment

Significant investment

An independent contractor often has a significant investment in the equipment he or she uses in working for someone else. However, in many occupations, such as construction, workers spend thousands of dollars on the tools and equipment they use and are still considered to be employees. There are no precise dollar limits that must be met in order to have a significant investment. Furthermore, a significant investment is not necessary for independent contractor status as some types of work simply do not require large expenditures.

REQUIREMENTS REGARDING INDEPENDENT CONTRACTOR STATUS, CONTINUED

Unreimbursed expenses

Independent contractors are more likely to have unreimbursed expenses than are employees. Fixed ongoing costs that are incurred regardless of whether work is currently being performed are especially important. However, employees may also incur unreimbursed expenses in connection with the services that they perform for their business.

Opportunity for profit or loss

The opportunity to make a profit or loss is another important factor. If a worker has a significant investment in the tools and equipment used and if the worker has unreimbursed expenses, the worker has a greater opportunity to lose money (i.e., their expenses will exceed their income from the work). Having the possibility of incurring a loss indicates that the worker is an independent contractor.

Services available to the market

An independent contractor is generally free to seek out business opportunities. Independent contractors often advertise, maintain a visible business location, and are available to work in the relevant market.

Method of payment

An employee is generally guaranteed a regular wage amount for an hourly, weekly, or other period of time. This usually indicates that a worker is an employee, even when the wage or salary is supplemented by a commission. An independent contractor is usually paid by a flat fee for the job. However, it is common in some professions, such as law, to pay independent contractors hourly.

TYPE OF RELATIONSHIP. Type of relationship refers to facts that show how the worker and business perceive their relationship to each other.

The factors, for the type of relationship between two parties, generally fall into the categories of:

- Written contracts
- Employee benefits
- Permanency of the relationship
- Services provided as key activity of the business

Written Contracts

Although a contract may state that the worker is an employee or an independent contractor, this is not sufficient to determine the worker's status. The IRS is not required to follow a contract stating that the worker is an independent contractor, responsible for paying his or her own self employment tax. How the parties work together determines whether the worker is an employee or an independent contractor.

Employee Benefits

Employee benefits include things like insurance, pension plans, paid vacation, sick days, and disability insurance. Businesses generally do not grant these benefits to independent contractors. However, the lack of these types of benefits does not necessarily mean the worker is an independent contractor.

Permanency of the Relationship

If you hire a worker with the expectation that the relationship will continue indefinitely, rather than for a specific project or period, this is generally considered evidence that the intent was to create an employer-employee relationship.

Services Provided as Key Activity of the Business

If a worker provides services that are a key aspect of the business, it is more likely that the business will have the right to direct and control his or her activities. For example, if a law firm hires an attorney, it is likely that it will present the attorney's work as its own and would have the right to control or direct that work. This would indicate an employer-employee relationship.

ORDINARY AND NECESSARY BUSINESS EXPENSES

All payments by check or cash from your business (corporation, partnership, limited liability company or proprietorship) must be ordinary and necessary for the operation of your business in order to be deductible. We are presuming that the proper documentation is held in your files. Contact our office if you need guidance in this area.

In addition to all normal record-keeping requirements, the following require extra care in documentation as follows:

LOBBYING EXPENSES. No deduction is allowed as a business expense for amounts paid in connection with influencing legislation. Please clearly note any lobbying expenses for our office. Be aware that DUES paid to organizations engaged in lobbying need to be allocated. The organizations will provide you with the amount of Dues allocable to the lobbying activities if applicable.

EMPLOYER-PROVIDED TRANSPORTATION BENEFITS. Up to \$260 a month of qualified parking, up to \$260 a month of the combined value of transit passes and vanpools may be excluded from the income of the employee. The business does not receive tax deduction. Partners and >2% Sub-S shareholders are taxed on the entire amount of parking benefits provided to them by their partnership/corporation.

CASH RECEIVED OVER \$10,000. If in the course of business you receive \$10,000 of cash in one transaction or two or more related transactions, you are required to report the transaction to the IRS.

GIFTS. Gifts to customers, business associates, clients, professional advisors, etc., can qualify as deductible expenses if they meet the usual "ordinary and necessary" requirements. The deduction is limited to \$25 for each recipient each year.

TRAVEL. Away-from-home travel expenses while in the pursuit of trade or business are deductible. Meals must be segregated as they are subject to limitation. Entertainment expenses are not tax deductible.

CLUB DUES AND ENTERTAINMENT. No deduction for **CLUB DUES** is allowed (*e.g.*, country clubs, airline clubs, travel clubs, athletic clubs and business luncheon clubs). However, dues for memberships in professional and trade associations civic or public service organizations are deductible. Expenses for business entertainment are not deductible.

CHARITABLE DONATIONS. For any cash or property contribution of \$250 or more, you must have written acknowledgement from the organization to substantiate your donation. This written proof must include the amount of cash or a description of any property you contributed, and whether the organization provided any goods or services in exchange for the gift, including a good faith estimate of the value of the goods or services you received.

TRAVEL AND MEAL EXPENSES. **NO** expense will be allowed by the IRS without proper documentation. Below is an example of the documentation that **MUST** accompany **ALL** travel and meal receipts.

DATE _____	AMOUNT \$ _____	PLACE _____
PURPOSE _____		
SUBJECT DISCUSSED _____		
ATTENDING: _____	BUSINESS RELATIONSHIP: _____	
_____	_____	

EXPENSE DEDUCTION (IN LIEU OF DEPRECIATION). For 2018 most business taxpayers can deduct as an expense, rather than to depreciate, up to \$520,000, of the cost of purchased qualified tangible personal property placed in service during the tax year. The maximum deduction amount is reduced dollar-for-dollar for qualified tangible personal property placed in service in excess of \$2,040,000.

VEHICLE EXPENSE AND USE

VEHICLE USAGE/EXPENSES. In order for vehicle expenses and depreciation (or the standard mileage deduction) to be allowed, the IRS insists that a record of business vehicle use and mileage **MUST** be kept. The only exception to this rule is a vehicle that is **NEVER** used personally. Additionally, personal use of business vehicles should be reimbursed or included in personal income.

The following is a summary of the tax laws and regulations regarding vehicle as listed property.

CURRENT TAX LAW

1. **LUXURY AUTO LIMITS.** Special rules apply that limits the amount of depreciation and expense election that can be deducted with respect to a given automobile. Sometimes these limits are referred to as “luxury auto limits.” However, the limits do not apply to luxury automobiles - the rules apply to all automobiles, with certain exceptions. No fair market value dollar amount triggers the limits. The rules limit the depreciation and expense election on an automobile to a certain amount per year, based on the year the automobile is first placed in service. The depreciation deduction is limited as follows:

For passenger automobiles placed in service during calendar year 2017, the maximum depreciation deduction allowance depends on whether the 100% additional first-year depreciation deduction applies. For passenger automobiles placed in service during calendar year 2017, which the additional depreciation deduction does not apply, the limits are:

- \$3,160 for the first tax year (2017)
- \$5,100 for the second tax year (2018)
- \$3,050 for the third tax year (2019)
- \$1,875 for each succeeding tax year (2020 and later)

For trucks and vans placed in service during calendar year 2017, the maximum depreciation deduction allowance depends on whether the 100% additional first-year depreciation deduction applies. For trucks and vans placed in service during calendar year 2017, which the additional depreciation deduction does not apply, the limits are:

- \$3,560 for the first tax year (2017)
- \$5,700 for the second tax year (2018)
- \$3,450 for the third tax year (2019)
- \$2,075 for each succeeding tax year (2020 and later)

2. **RESTRICTED EXPENSING DEDUCTION FOR HEAVY SUVs.** No more than \$25,000 of the cost of a heavy SUV (sport utility vehicle) may be expensed under Code Sec 179. The \$25,000 expensing limit applies to any four-wheeled vehicle which is designed (or can be used) to carry passengers on public streets, roads and highways (except for rail vehicles), and has a GVWR (gross or loaded vehicle weight rating) of more than 6,000 pounds but not more than 14,000 pounds.
3. **SUBSTANTIATION REQUIREMENT.** Adequate mileage records of qualified business use of all vehicles must be maintained. Taxpayers claiming vehicle expense deductions will be required to answer a series of questions on their tax returns. These questions will establish the personal use of the vehicle. A questionnaire will be sent to you annually from our office.

STANDARD MILEAGE RATE. For 2017 and 2018 the standard mileage rate that can be used for business travel is 53.5¢ and 54.5¢ per mile, respectively. An employer who reimburses at a rate greater than the standard rate must report the full amount (not just the excess over the standard rate) of the reimbursement on the employee’s Form W-2.

EMPLOYEE AUTO ALLOWANCE. Auto allowances are not a favorable means of reimbursing employees for business auto use. They are subject to withholding and are includable in the W-2, but the offsetting deduction to the employee will be limited as a miscellaneous itemized deduction to the amount in excess of 2% of the Form 1040 adjusted gross income. If an employee uses his vehicle for business, it should be reimbursed using the standard mileage rate.

LIMITATION ON MEALS AND ENTERTAINMENT EXPENSES

In general, you can deduct only 50% of your business related meals and entertainment expenses. The 50% limit applies to employees or their employers and to self-employed persons or their clients, depending on whether the expenses are reimbursed.

Care should be taken in this area to properly categorize expenses. For example, identify any meal or entertainment expenses paid on a combined account statement from a hotel or other provider.

Meals and entertainment provided in conjunction with a professional seminar or business meeting are subject to the limitation. You will need to identify the amount representing the value of food or beverage included in the package price.

100% DEDUCTIBLE:

- Business travel transportation to/from business meal (e.g., cab fare)
- Expenses included in employee compensation
- Expenses which are reimbursed -- the 50% limitation applies to the one making the reimbursement
- Traditional recreational expenses for employees -- company picnic
- Year-end holiday staff party
- De minimis* business promotion items (holiday ham)

50% DEDUCTIBLE:

- Business meals and beverage (local and out-of town)
- Medical travel, meals and beverages
- Associated taxes and tips
- Cover charges
- Meals excluded from employees' income under the convenience of the employer rule

NO DEDUCTION:

- Investment conference or seminar
- Travel as a form of education
- Charitable travel if associated with personal pleasure
- Lavish or extravagant expenses
- Expenses if taxpayer or his representative were not present
- Cruises
- Meals with customers if no business discussed or the taxpayer is not present
- Entertainment, amusement and recreation facility expenses (i.e., yachts, sporting events, theatre tickets, golf club dues, stadium fees hunting lodges, swimming pools, tennis courts and bowling alleys)

STATE SALES AND USE TAX

States are aggressively enforcing and/or reinterpreting sales subject to sales tax. If there is any question in your mind whether your sales are subject to sales tax, please call us or the state to review. Additional information is available on our website.

States require that USE TAX be paid on all purchases (unless an exemption applies) for use by your company or by you, the taxpayer, personally (supplies, equipment, etc.), if sales tax has not been paid at the time of purchase. In certain circumstances use tax applies when you may not realize it such as shipping and handling. Be sure to review all invoices you pay for use tax implications. If sales tax has not been charged you probably owe use tax with the exception of services, etc. Each state applies the use tax regulations differently, so be sure you understand your state requirements. Do not ignore use tax on the bulk sale of assets in some states, such as in the sale of a business.

We will gladly help you register for use tax if you have not done so.

VIRGINIA BUSINESS LICENSES

Most Virginia businesses are required to maintain a County Business License. Various counties now require a business license for all owners of even one rental property or rental equipment activity. If you have not obtained a license and wish to do so, please contact us or your county.

FORMS AND INFORMATION AVAILABLE ON OUR WEBSITE

Please go to Dennis & Associates Group, Inc's website, www.dagitax.com, and click on "Helpful Links" in the Tools & Resources section for the following forms and other resources:

- Documentation of Business Expenses
- 2017 Annual Business Client Letter
- Use Tax
- 1099 Compliance
- Document Retention
- Voucher for Travel and Meal Expenses
- DC New Hire Form
- Form D-4, DC Employee's Certificate
- Form I-9, Employment Eligibility Verification
- Form MW-507, MD Employee's Withholding
- Form VA-4, Virginia Employee Withholding
- Form W-4, Employee Withholding
- Form W-9, Request for EIN
- Form IT-104, West Virginia Employee Withholding
- MD New Hire Form
- VA New Hire Form
- Internal Revenue Service
- Instructions for Schedule K-1
- Virginia Department of Taxation
- Maryland Department of Assessments & Taxation
- Comptroller of Maryland
- District of Columbia Office of Tax & Revenue
- Electronic Federal Tax Payment System®
- The Salvation Army Donation Value Guide
- Social Security Administration

NetClient CS Web Portal

In our efforts to comply with the increasing demand for paperless functionality, security, and to grow as a Next-Generation Accounting Firm, we encourage you to use our new NetClient Web Portal. NetClient allows our clients to access documents from their individual and business tax accounts 24/7. NetClient is a one-stop shop for all of your tax and accounting document transfer, retrieval and retention needs.

Your **File Exchange folder** will now be our primary method for securely transferring your personal and business documents to you, and also how we prefer you send them to us. Your File Exchange folder is linked to the dagi associate in charge of your account. They will receive notice when you upload documents, and you will receive email notice of documents dagi has uploaded to you.

Your **tax returns** will now appear in your portal in your individual or company folder. Your tax returns and supporting source documents will be available via your NetClient portal for at least 3 years.

To ensure you get the most from your account, please feel free to explore your portal and folders. A tutorial video is available on our website to familiarize you with the portal. Be sure to contact us with any questions!

Please note that registration cannot be initiated through our website. If you do not already have a NetClient account, please contact Kerri Polak at our office by calling 703-383-9710 or emailing kerri@dagitax.com to request an invitation.