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**TO:** Our Clients and Friends  
**FROM:** Grossman Yanak & Ford LLP  
**DATE:** January 2021  
**RE:** 2021 Payroll and Other Important Tax Developments

**INFORMATION CONTAINED IS CURRENT AS OF JANUARY 6, 2021**

As you begin the New Year, we would like to remind you of a number of important business changes that have been implemented by Congress, the Internal Revenue Service, and other authorities for calendar year 2021. We hope that you will find this information helpful.

**Social Security Tax (FICA)**

For 2021, the combined social security rate will remain at 7.65%. This rate is comprised of 6.2% on wages up to \$142,800 for Social Security and 1.45% for Medicare on all earned income. Additionally, wages, compensation or self-employment income are subject to an additional 0.9% Medicare tax on amounts over \$250,000 for married taxpayers filing jointly, \$125,000 for married taxpayers filing separately, and \$200,000 for all other filing statuses. This tax will be withheld by employers, but the filing status will determine if tax is owed.

Furthermore, the self-employment rate will remain at 15.3%; 12.4% for social security up to \$142,800 and 2.9% Medicare on all earned income. The additional 0.9% Medicare tax and limitation amounts do still apply to the self-employment tax. As in 2020, self-employed individuals will be able to reduce their total gross income by one-half of their self-employment tax, excluding the additional 0.9% Medicare tax. This deduction will be taken in computing the taxpayer's adjusted gross income.

**Federal Unemployment Tax (FUTA)**

The FUTA rate is set at 6.0% on the first \$7,000 paid to each employee as wages during the calendar year. As most employers are allowed a 5.4% credit against the FUTA tax for timely paid state unemployment taxes, the net FUTA rate for most employees will be 0.6% for 2021.

**Pennsylvania Unemployment Tax**

The Pennsylvania State Unemployment Insurance wage base is set at \$10,000 for 2021. The employee rate will remain the same in 2021 at 0.06%.

**State Income Tax – Pennsylvania**

The Pennsylvania income tax rate will remain the same in 2021 at 3.07%.

The Pennsylvania Legislature passed Act 7 of 1997, which exempted some cafeteria fringe benefits from Pennsylvania income taxes. Employee contributions into cafeteria plans qualifying under Internal Revenue Code Section 125 covering hospital, sickness, disability or death may be benefits that are no longer taxable.

Also, Act 45 of 1998, passed by the Pennsylvania Legislature in April of 1998, exempts employee personal use of an employer's owned and leased property from taxable compensation. This exception also applies to employer provided services. The most common example would be the personal use of an employer's automobile by an employee. This situation is not subject to Pennsylvania income tax. This provision was made retroactive to January 1, 1998. Please contact our office for help on determining the proper reporting of Pennsylvania compensation.

### **Paperless Filing Options – Pennsylvania**

The Pennsylvania Department of Revenue has made it easier for you to file and pay your Employer Withholding Tax with three electronic filing options:

- **Internet** – The PA Departments of Revenue and Labor & Industry have partnered to bring you e-TIDES (Electronic Tax Information Data and Exchange System). e-TIDES is an internet filing system that allows electronic filing of returns, payments, and extension requests for multiple taxes and services which are listed on the website. For more information, visit <https://www.etides.state.pa.us/>
- **TeleFile** – Use the Department's TeleFile system to quickly and easily file Sales Tax and Employer Withholding using a touch-tone telephone: 1-800-748-8299. More info at: <https://www.doreservices.state.pa.us/businessstax/telefile.htm>
- **Third Party Software** – The PA Department of Revenue has approved the use of two third-party software packages to prepare/file Employer Withholding Tax: *Quickbooks* by Intuit Inc. (<https://quickbooks.intuit.com/>) and *Payroll CS* (<https://tax.thomsonreuters.com/us/en/cs-professional-suite/accounting-cs-payroll>)

All of these methods are fast, easy, and safe ways to file and make payments. Electronic filing allows you to receive immediate confirmation that the Department received your returns and payments. You can also calculate your return automatically, preventing costly assessments due to math errors, and set up automated payments.

### **Ohio and West Virginia Unemployment Tax**

The Ohio unemployment tax wage base will remain unchanged at \$9,000 in 2021. The experience rate for all new businesses except those involved in construction will remain unchanged at 2.7%. The rate for new construction businesses will remain unchanged at 5.8%.

The West Virginia unemployment tax wage base will remain at \$12,000 in 2021. Most new employers begin with a rate of 2.7%. This rate remains the same for 36 consecutive months ending on June 30. After a period of time, experience factors will be included in the rate, and the rate can fall or rise depending on the specific employer's history of workers filing unemployment compensation claims. An out-of-state construction company begins with a rate of 8.5%.

### **Qualified Retirement Plan Cost of Living Adjustments for 2021**

The limit on elective deferrals to qualified retirement plans remains unchanged from 2020 at \$19,500, and the maximum annual contribution to a defined contribution plan increases to \$58,000. The annual compensation limit for figuring contributions to qualified plans and simplified employee pensions (SEPs) increases from \$285,000 to \$290,000. The maximum annual benefit for defined benefit plans remains the same as the 2020 limitation of \$230,000 for 2021. The limit on compensation deferred under a SIMPLE retirement plan remains unchanged at \$13,500. Catch up contributions remain unchanged at \$3,000. The earnings limitation used to define highly compensated employees remains the same at \$130,000. Catch-up elective deferrals to 401(k) plans for employees age 50 or over remains unchanged at \$6,500 in 2021.

## **Social Security Recipients**

The maximum amount of earned income that a Social Security recipient may receive without losing any benefits will increase to the amounts listed below in 2021:

<b><u>Age</u></b>	<b><u>2020</u></b>	<b><u>2021</u></b>
Younger than full retirement age	\$ 18,240	\$ 18,960
<i>Note: One dollar in benefits will be withheld for every \$2 in earnings above the limit.</i>		
Full retirement age and over	Unlimited	Unlimited
The year an individual reaches full retirement age	\$ 48,600	\$ 50,520
<i>Note: Applies only to earnings for months prior to attaining full retirement age. One dollar in benefits will be withheld for every \$3 in earnings above the limit.</i>		

Social Security's "full-benefit retirement age" was 65 for many years and has been increasing gradually due to the 1983 Social Security Amendments. Early retirement benefits are first available at age 62, with a permanent reduction to 80% of the full benefit amount. Currently, the full-benefit age is 66 and two months for people born in 1955 and it will increase to 67 for those born in 1960 or later. Early retirement benefits will continue to be available at age 62, but they will be reduced more. When the full-benefit age reaches 67, benefits taken at age 62 will be reduced to 70% of the full benefit and benefits first taken at age 65 will be reduced to 86.7% of the full benefit.

## **Form 1099 Filing Requirements**

Beginning in tax year 2020, Form 1099-NEC will be used to report nonemployee compensation in an aggregate amount equal to or in excess of \$600. Previously nonemployee compensation was reported on Form 1099-MISC box 7. Due to the introduction of Form 1099-NEC the Form 1099-MISC has been revised. The following payments have remained consistent with the prior year Form 1099-MISC: rent, services, premiums, prizes, awards, medical and healthcare, and determinable gains, profits, and income. Any payment of interest or dividends made to an officer or shareholder should be included on Forms 1099-INT and 1099-DIV for amounts over \$10.

Generally, payments made to attorneys in the ordinary course of a trade or business, in excess of \$600, must be reported on Form 1099-MISC. Attorneys are required to promptly supply their taxpayer identification numbers to persons required to file these information reports. Payments must be reported even if the law firm is a corporation. Employers filing 250 or more are required to file electronically.

With a few exceptions, Forms 1099 must be issued to recipients no later than February 1, 2021. The employer's report should be filed to the IRS by March 1, 2021 (or March 31, 2021, if filed electronically). However, the Form 1099-NEC reporting non-employee compensation is due no later than February 1, 2021, even if filed electronically.

Grossman Yanak & Ford LLP can assist you with respect to filing Forms 1099, as well as in determining the proper classification of independent contractors versus employees.

## **Pennsylvania Form 1099-Misc and Form 1099-NEC Filing Requirements**

The Internal Revenue Service requires certain payments to unincorporated taxpayers to be reported annually on a Form 1099-MISC, Miscellaneous Income. Generally, these payments include payments to each person to whom a payment has been made in any tax year of:

- at least \$10 in royalties or broker payments in lieu of dividends or tax-exempt interest;
- at least \$600 in:

- rents;
- prizes and awards;
- other income payments;
- medical and health care payments;
- crop insurance proceeds;
- cash payments for fish (or other aquatic life) you purchase from anyone engaged in the trade or business of catching fish;
- generally, the cash paid from a notional principal contract to an individual, partnership, or estate;
- payments to an attorney; or
- any fishing boat proceeds,

In addition, the form is to be used to report that you made direct sales of at least \$5,000 of consumer products to a buyer for resale anywhere other than a permanent retail establishment.

The Form 1099-NEC is required to be reported annually for nonemployee compensation. Any business or individual to whom have been paid at least \$600 or more should receive a Form 1099-NEC.

Pennsylvania imposes a withholding obligation for some payers of Pennsylvania source income and lessees of Pennsylvania real estate to nonresidents. The legislation also expanded the rules requiring when a copy of Federal Form 1099-MISC and Form 1099-NEC must be filed with Pennsylvania.

Anyone that pays Pennsylvania-source income to a resident or non-resident individual, partnership or single member limited liability company and is required to file a Federal Form 1099-MISC/1099-NEC is required to:

- file a copy of Federal Form 1099-MISC/1099-NEC with the Department by January 31 of the next year; and
- file a copy of Federal Form 1099-MISC/1099-NEC with the payee by January 31 of the next year.

Generally, if the payer or lessee must electronically file Pennsylvania employer withholding, the Form 1099-MISC/ 1099-NEC must be filed electronically.

**Withholding of Nonemployee Compensation, Business Income, and Some Lease Payments**

Anyone that pays Pennsylvania source nonemployee compensation or business income to a nonresident individual or “pass through business entity” with a nonresident owner or member *and* who is required to file a Federal Form 1099-MISC or 1099-NEC with the Department of Revenue is required to withhold an amount equal to the Pennsylvania personal income tax rate. Importantly, there is an exempted payment amount. Withholding is optional if the payee received less than \$5,000.

A payment is “non-employee compensation” if it is made to:

- someone who is not your employee; and
- for services in the course of your trade or business (including government agencies and nonprofit organizations)

Payees, who have tax withheld and receive a copy of the Federal 1099-MISC or 1099-NEC, are required to file a copy with their Pennsylvania tax return.

Payers are:

- required to apply for a 1099-MISC or 1099-NEC withholding account by completing a PA-100 Pennsylvania Enterprise Registration Form electronically;
- required to electronically file quarterly withholding returns and annual reconciliations via e-TIDES;
- required to electronically remit the withheld monies via e-TIDES;
- liable for withheld taxes in the same manner as employers withholding employee compensation; and
- Liable for taxes not withheld in the same manner as employers withholding employee compensation.

Anyone leasing Pennsylvania real estate making lease payments in the course of their trade or business to a non-resident lessor must withhold an amount equal to the personal income tax rate. Again, withholding is optional for paid amounts under \$5,000 annually.

Lease payments include: rents, royalties, bonus payments, damage rents and other payments made pursuant to a lease. Lessees that withhold from a lessor are:

- required to apply for a 1099-MISC or 1099-NEC withholding account by completing a PA-100 Pennsylvania Enterprise Registration Form electronically;
- required to electronically file quarterly withholding returns and annual reconciliations via e-TIDES;
- required to electronically remit the withheld monies via e-TIDES;
- liable for withheld taxes in the same manner as employers withholding employee compensation; and
- liable for taxes not withheld in the same manner as employers withholding employee compensation.

### **Forms W-2/W-3 Filing Requirements & Changes**

**Please note:** The due date for filing your 2020 Forms W-2 with the SSA is February 1, 2021 whether you file by paper or electronically. If you choose not to file electronically, mail File Copy A of Form W-2 with the entire page of Form W-3 to the SSA by February 1, 2021. You are required to furnish Copies B, C and 2 of Forms W-2 to your employees no later than February 1, 2021. A Form 8809, *Application for Extension of Time to File Information Returns*, can provide a 30-day extension of time to file Form W-2, moving the due date to March 1, 2021.

If you are required to file 250 or more Forms W-2, you must file them electronically unless the IRS granted you a waiver. Even if you file fewer than 250 Forms W-2, you may still be subject to electronic filing. Employers can file electronically by visiting <http://www.socialsecurity.gov/employer> and selecting “Business Services Online.” Once registered, you can upload the information or use “Create Forms W-2 Online” to create fill-in versions for filing with Social Security Administration and for printing copies for filing with state or local governments, distribution to your employees, and for your records.

As consistent with prior years, employers who filed 250 or more Forms W-2 for the preceding calendar year are required to report the aggregate cost of employer-sponsored health coverage in box 12, using code “DD.” The reported amount will include both the portion paid by the employer and the employee. Employers who filed fewer than 250 Forms W-2 for the preceding calendar year are not required to report this information.

### **Electronic Payment Requirement**

All businesses are required to make their federal tax deposits through an electronic funds transfer system. Deposits are made electronically using the automated clearing house (ACH) financial network, which transfers funds and passes tax payment information to the IRS. Taxpayers must enroll in the system before any attempt is made to transfer monies electronically. Taxpayers can choose the type of payment method. However, using the EFT does not change the basic deposit rules or deposit penalties. The IRS may impose an avoidance FTD penalty of 10% for each non-electronic deposit. For more information on registration for EFTPS (Electronic Federal Tax Payment System), visit [www.eftps.gov](http://www.eftps.gov).

The IRS has issued regulations providing that the timeliness of a deposit is determined by reference to business days, meaning every calendar day that is not a Saturday, Sunday, or a legal holiday. This is a change from the previous rules that based timeliness of payments on “banking” days, which would include relief for state holidays.

### **Standard Mileage Rate**

The Internal Revenue Service have announced that the standard mileage rate for business use of an automobile during 2021 will decrease to 56 cents per mile. The rate for use of an automobile for charitable purposes will remain at 14 cents per mile. The rate for the use of an automobile for medical purposes will also decrease to 16 cents per mile.

## **Federal Payroll Tax Deposits**

Taxpayers are required to make all payroll and other tax deposits electronically. A taxpayer must use the Electronic Federal Tax Payment System (EFTPS) to make federal tax deposits. Taxpayers must be enrolled in EFTPS before they can make EFT deposits. Use Form 9779 *Business Enrollment Form for EFTPS*, to register with the EFTPS. You may choose either of two payment options: (1) EFTPS using the Internet or phone or (2) EFTPS through a financial institution.

## **Pennsylvania Payroll Tax Deposits**

For tax payments made to the state of Pennsylvania, EFT is mandatory for amounts over \$1,000.

Employers who estimate that they will be required to withhold less than \$300 for each quarterly period can pay the tax on or before the last day of April, July, October and January for filing the each of the quarterly returns. Employers estimating to withhold between \$300 and more, but less than \$1,000 for each quarterly period must pay the tax on or before the 15<sup>th</sup> of the next month, except for December withholdings, which are not due until January 31<sup>st</sup>. For employers who estimate withholdings to be \$1,000 to \$4,999 for any quarterly period, the tax must be paid semimonthly, within three banking days after the close of the semimonthly period. Employers who estimate withholdings to be between \$5,000 or more per quarter, must deposit the payroll taxes on a schedule similar to the IRS semiweekly deposit schedule. This means that, if the payday is Wednesday through Friday, the taxes must be paid on the Wednesday following the payday, and if the payday is Saturday through Tuesday, the taxes must be paid on the following Friday after the payday.

An employer may change to a less-frequent payment schedule only at the beginning of a calendar year. A change to a more frequent payment basis must be requested 15 days prior to the beginning of any quarter by logging into your e-TIDES account, or completing the *Tax Account Information Change/Correction Form* (REV-1705 AS), and faxing it to 717-787-0145 or mailing it to the appropriate address.

## **Deadline for Depositing Participant Contributions to Employee Benefits Plans**

Pursuant to Final Regulations (DOL Reg. 2510.3-102) issued by the Department of Labor regarding when participant contributions to an employee benefit plan (i.e., a 401(k) plan) must be deposited by the employer to the plan, the general guideline for depositing employer contributions is to do so as soon as administratively feasible within the required time period.

The absolute deadline for transferring funds to a welfare benefit plan to which the rules apply (such as a contributory health insurance plan) remains 90 calendar days after the employer receives the contribution from the plan participant or withholds it from the employee's pay. However, for pension-related plans (such as a 401(k) plan), the absolute deadline is no later than the **15<sup>th</sup> business day** of the month following the month in which the participant's contribution is withheld from his/her pay or otherwise received by the employer.

As with the 90-day rule, the new 15-day rule is a maximum limit, not a safe harbor. Employers are still required to transfer a participant's benefit plan contributions to the plan as soon as administratively feasible.

## **City of Pittsburgh Tax Updates**

**Payroll Expense Tax** – Pittsburgh imposes a Payroll Expense Tax on all persons conducting business activity within the City of Pittsburgh. The Payroll Expense Tax rate is 0.0055 (0.55%) on payroll expenses paid to employees working within the city of Pittsburgh.

The Payroll Expense Tax is computed on the employer's payroll expense and on the net earnings distribution of sole proprietors, individuals, partnerships, associations, joint ventures or other entities which perform work, provide service or make sales within the City of Pittsburgh.

The City of Pittsburgh Payroll Expense Tax return is paid quarterly as follows:

<b><u>Payroll Expense for Months</u></b>	<b><u>Due</u></b>
January, February, March	May 31
April, May, June	August 31
July, August, September	November 30
October, November, December	February 28 of the succeeding year

**Local Services Tax** – This tax will remain at \$52.00 per person per year. The employer is required to withhold the pro-rata share of the tax by dividing the \$52.00 by the number of payroll periods established by the employer. Pennsylvania law limits total payment by one person to a maximum of \$52.00 per year, regardless of the number of employers in a year.

Employers and self-employed taxpayers must remit withheld taxes to the designated tax collector 30 days after the end of each calendar quarter.

Wages, salaries, commissions, bonuses, fees, tips or remuneration of any form is taxable by the City of Pittsburgh.

***Please contact your GYF Tax Professional at 412.338.9300 for further guidance on payroll or other new tax developments. Our best wishes to you, your family and your company for a healthy and prosperous 2021!***

**GROSSMAN YANAK & FORD LLP**

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**Blog posts, webinar recordings and additional information about related issues, including Paycheck Protection Program (PPP) Loans, the Employee Retention Credit (ERC) and other COVID-relief provisions can be found on our website at <https://gyf.com/resources/>**

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