



Inside This Issue

- § Free Non-profit Seminar
- § Sidestep a Tax Penalty
- § Increased IRS Payroll Tax Audits
- § Don't "Borrow" Taxes
- § Be Aware of Tax Responsibilities
- § New Federal Returns Deadline



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**Free Seminar
for Non-Profits!**

**See page 2
for details**

2009 NC Tax Law Changes

In order to raise revenue during the current economic downturn, the North Carolina General Assembly made several changes to the state's tax laws for 2009.

Sales tax increase

The state sales tax will increase by 1 percent effective Sept. 1. As a result of the increase, the combined state and county tax rate will climb to 7.75 percent in most N. C. counties.

Personal surtax

Individuals who meet certain minimum income requirements will pay a surtax on the amount of tax they owe before any withholding, payments or credits, as shown on Line 14 of the D-400 Individual Tax Return. **The surtax is not computed on the amount of net tax due at the time of filing, but rather your entire tax due for the year.** This is applicable to the 2009 tax year.

For example, if your filing status is "married filing jointly" and your North Carolina taxable income shown on Form D-400 is \$150,000, you would compute your "regular" state income tax on Line 14 and then multiply that amount by 2 percent. The result would

be added to your "regular" tax on Line 14 to give you your total tax liability. Then you subtract credits, withholding, payments, etc., to find out if you are due a refund or if you have to pay any additional tax.

♦ **Note:** *there is no penalty (interest) for underpayment of estimated tax if the underpayment is because of the surtax.*

Corporate surtax

Corporations subject to corporate income tax must pay an income tax surcharge of 3 percent on its North Carolina income tax due before deducting any tax credits or payments.

S corporations filing composite income tax returns on behalf of shareholders who live outside North Carolina must calculate the amount of North Carolina income tax due separately for each nonresident shareholder. That calculation must include the amount of individual income surtax based on the Surtax Percentage Table for individuals with a filing status of single.

Please feel free to contact our office if you have any questions about the above changes.

Common Filing Statuses

Filing Status	NC Taxable Income on Line 13	Surtax Percentage
MFJ	Between \$100,000 and \$250,000	2%
MFJ	Over \$250,000	3%
Single	Between \$60,000 and \$150,000	2%
Single	Over \$150,000	3%

Free Seminar for Non-Profits to be Held September 30th

Under pressure from the Department of Labor and the IRS, the rules non-profit organizations have operated under for 403(b) retirement plans have drastically changed. These rules now require plan document filings, preparation of form 5500, and possible requirements for an audit of the plan. The new rules take effect for the 2009 tax year - will you or your organization be ready?

Thomas, Judy and Tucker P. A. will be sponsoring a FREE in-depth seminar on the changes to the rules and what you can do to prepare. This seminar will be held at Brier Creek Country Club on Wednesday, September 30th from 8 a.m. until 12 p.m. The following speakers will be present:

Steve Long - Steve is an attorney with the tax and employment benefit practices of Williams Mullen in Raleigh. He will

Sidestep an Estimated Tax Penalty

The April 15 deadline for filing tax returns is well known. But paying taxes is actually a year-round proposition. For example, employees are required to pay tax through regular withholding payments, while others must make quarterly installments of estimated tax. Fortunately, a change in the new tax law eases the requirements for certain taxpayers.

Basic rules: An individual is required to pay estimated tax unless he or she owes \$1,000 or less in annual tax (after subtracting tax withheld from salary) or had zero tax liability in the prior year. The quarterly due dates are April 15, June 15 and September 15 of the current year, and January 15 of the next year. The deadline is moved to the next business day if the due date falls on a Saturday, Sunday or a legal holiday.

If taxes are not paid in a timely fashion, the individual is liable for an underpayment penalty, in addition to the regular tax owed. The interest rate for underpayments is announced by the IRS on a quarterly basis. For instance, the interest rate is 4% for the second quarter of 2009.

However, an individual may avoid an "estimated tax penalty" by qualifying under one of the following three safe-harbor rules:

1. No penalty is imposed if the amount paid for the current year is equal to at least 90% of the taxpayer's current tax liability.
2. No penalty is imposed if the amount paid for the current year comes to 100% of the taxpayer's tax liability for the prior year. The percentage for this safe harbor is 110% if the taxpayer's adjusted gross income (AGI) for the prior year exceeded \$150,000.
3. No penalty is imposed if the amount paid for the current year comes to 90% of the tax that is due on the taxpayer's "annualized income." This safe harbor, which may apply

to a self-employed individual with a seasonal business, requires additional calculations. A professional tax adviser can provide guidance.

Kristen Hoyle - Kristen is a Partner with Thomas, Judy, & Tucker, P. A. and specializes in non-profit and ERISA audits. She will be discussing the new IRS form requirements and what you will need to do to get ready for an audit.

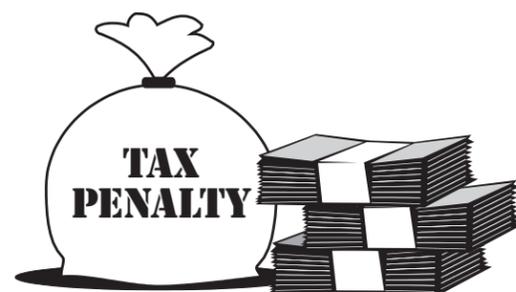
Wes Thomas - Wes is a broker with Wells Fargo and works with many retirement plans and non-profit clients. He will be discussing the types of investments allowed in a 403(b) plan.

Pre-registration is required for attendance and a continental breakfast will be served prior to the event. If you and/or a member of your organization would like to attend, please contact Carol Wilson (Carol.Wilson@tjtpa.com) at 919-571-7055 by September 15, 2009.

It is usually easiest to qualify under the second safe harbor. For example, suppose an individual with an annual AGI of \$100,000 owed \$20,000 in tax in 2008. If the individual arranges to pay at least \$20,000 in estimated tax for 2009, he or she will not be assessed any penalty. Conversely, payment based on 90% of current tax liability is harder to ascertain.

The new economic stimulus law creates a special tax break beginning in 2009. If an individual's AGI is less than \$500,000 and more than 50% of the previous year's income came from small business activities, payments may be based on 90% of his or her previous year's tax liability (instead of the usual 100% or 110% figure). A "small business" is defined as a business with an average number of 500 employees or fewer. This new law change is expected to benefit many self-employed individuals this year.

Finally, the estimated tax penalty may be waived if the taxpayer can show that the underpayment is due to a casualty or some other unforeseen circumstance. In this case, be sure to retain relevant records, such as police reports and insurance company reports, as proof.



Increase in IRS Payroll Tax Audits

In late 2009, the IRS will begin implementing a program to enforce compliance with employment tax laws. Under this program, the IRS will randomly audit approximately 6,000 businesses over a 3-year period. The primary focus of these examinations will be on four areas: 1) proper treatment of workers as employees versus independent contractors; 2) fringe benefits, such as personal use of business vehicles and compliance with discrimination standards applicable to other fringe benefits; 3) unreasonable compensation paid by closely held businesses to their owners; and 4) compliance with the accountable plan rules for the reimbursement of business expenses.

To prepare for a possible audit, businesses should review their policies and procedures in these areas. Please contact us if you have any questions regarding the laws and regulations related to employment taxes.

Don't "Borrow" Sales and Withholding Taxes

Business owners should resist any temptation to use money they collect and set aside for sales and payroll taxes to pay operating and other expenses for their businesses. Owners and managers are obligated to collect and turn those funds over to the state in a timely manner; despite any pressure they may face because of the slowing economy. Borrowing those funds for business or personal expense, even temporarily, is not worth the risk of civil and/or criminal penalties you may incur.

By state law, owners, officers and managers of businesses are considered responsible stewards of the funds they collect and set aside for sales and withholding taxes. Any of them who use those funds for any other purpose - even if they intend to pay them back - could face penalties and interest on that tax money, property seizures and in some cases, criminal charges.

Be Aware of Tax Responsibilities and Avoid Heartbreak

Payroll Tax Responsibilities-The penalty for failing to deposit payroll taxes may be extended to more than one party. *New case:* The founder of a trucking firm relied on his chief financial officer (CFO) to handle payroll tax obligations. After the CFO used the collected funds to pay other creditors, the IRS nabbed both the founder and the CFO. *Reason:* The founder had knowledge of the deficiencies, so each one may be held personally liable for the failure.

Tax Heartbreaker-When is a gift from a business owner to an employee "personal" in nature? It must be made through detached and disinterested generosity or out of affection, respect, admiration, charity or a similar impulse. In a new case, an employee said that a large payment she received was a gift reflecting the owner's romantic feelings. But the facts indicated it was an enticement for her to stay with the company. *Result:* The payment constituted taxable wages to the employee.

Reminder: New Federal Deadline for Partnership and Trust Returns



In the past, the extended deadline for partnership and trust returns was October 15th. Effective for tax year 2008, the extended deadline is now September 15th. If you haven't sent in your information for these returns, please do so as soon as possible in order to file a timely return. The extended due dates for corporate (Sept. 15th) and individual returns (Oct. 15th) did not change.

Thomas, Judy and Tucker P.A. in the News

Thomas, Judy and Tucker P. A. was recently honored as one of North Carolina's Top 100 Small Businesses by Business Leader Magazine. The rankings were based upon one and five year revenue growth, business achievement and community involvement. To qualify for this honor, the businesses had to do a majority of their business in North Carolina and employ less than 100 employees. The owners and employees of Thomas, Judy and Tucker P. A. look forward to maintaining this standing for years to come. Thank you to our clients and friends for helping us attain this level of achievement.