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RE: PAYROLL TAXES, FORM 1099'S AND OTHER ITEMS

The purpose of this letter is to summarize the various 2010 payroll taxes and related items and to inform you of the Internal Revenue Service Form 1099 filing requirements and various other tax related issues.

PAYROLL TAXES

Social Security

The FICA tax rates will remain unchanged for 2010. Of the 7.65% FICA tax, **6.2%** is social security tax and **1.45%** is the Medicare hospital insurance.

The earned income ceiling on which the social security tax is collected will not change in 2010 (from the 2009 ceiling of \$106,800). The Medicare tax will continue to be computed on total earned income with **no ceiling** in 2010.

Unemployment Taxes

The Federal Unemployment tax is still computed on a maximum of **\$7,000** of compensation for each employee. Although the tax rate is 6.2%, a credit of 5.4% is allowed if your Ohio Unemployment Tax is paid by its due date. Therefore, the actual net tax rate will usually only be **.8%**.

Continuing for 2010, employers are required to make a quarterly deposit for unemployment taxes if the accumulated tax exceeds **\$500**.

The Ohio taxable wage base for state unemployment tax for 2010 remains unchanged at **\$9,000**. The Michigan wage base also remains unchanged at **\$9,000** for 2010.

School District Income Tax

As you are probably aware, there are numerous school districts which now have an income tax. We want to emphasize that the employer is required to withhold this tax for any employee that resides in a school district which has an income tax. Therefore, the school district in which you (the employer) are located does not determine whether you must withhold the income tax. Also, please note there is a separate filing requirement and form on which this tax is remitted. The Ohio Department of Taxation publishes updated lists indicating the taxable districts and their respective tax rates. The latest updated list is enclosed for your convenience.

401(K) Wage Deferral Plans

The maximum wage deferral will remain the same in 2010 at \$16,500. Catch-up contributions can also be made totaling \$5,500 for individuals over age 50, which has not changed for 2010.

Workers' Compensation

Please be advised that the minimum and maximum reportable wages for corporate officers has increased again for 2010. The minimum semi-annual amount has increased to \$10,088 and the maximum semi-annual amount is now \$30,238.

IRS FORM 1099'S

We want to remind you of the requirements to file the various 1099 forms. The penalties for failure to file these forms may be significant. As you may be aware, there are several different types of 1099 forms (i.e. 1099-DIV, 1099-INT, 1099-MISC, etc.) which are required to be filed in various tax situations. However, we have only summarized the filing requirements for Form-1099 MISC. If you have any questions regarding any other possible 1099 situations, please contact our office for assistance.

You must file Form 1099-MISC for each person or entity, other than corporations, to whom you have paid at least \$600 in rents, services and other income payments (all nonemployee compensation). Fees for legal services must be reported even if payment was made to a corporation.

We strongly encourage you to file all required Form 1099's on a timely basis (due to the recipient on or before February 1, 2010 and to the IRS on or before March 1, 2010). Please note that the due date for filing information returns with the IRS is extended from March 1, 2010 to March 31, 2010 for returns filed electronically. Also, Form 8809 is used to request a 30-day extension of time to file Forms 1098, 1099 and 5498 with the IRS or Form W-2 with the Social Security Administration. This form cannot be used to request an extension of time to provide statements to the recipients. **If you want our Firm to prepare your 1099's, please obtain the necessary information and submit it to our office as soon as possible.**

HEALTH SAVINGS ACCOUNT (HSA)

An **employer's** contribution to an employee's Health Savings Account (HSA) is not subject to tax withholdings if it is reasonable to believe at the time of payment that the contribution will be excludable from the employee's income. If not, then the contribution is subject to withholding and must be reported in boxes 1, 3 and 5 of Form W-2. All employer contributions to an HSA must be reported in box 12 of Form W-2 with code **W**.

PERSONNEL FILES

Just a reminder that you should have the following forms on file for each employee: Form W-4; Form IT-4 (or other applicable state withholding); and Form I-9. If you need copies of any of these forms, please contact our office.

Also, you should already be aware that Ohio and Michigan have a "new hire" reporting requirement. Employee information must be reported when all of the following apply: the employee is newly hired, rehired, or returning to work after a separation of employment; the employer has obtained a W-4 form; and the employee lives, works, or will be assigned to work in the respective state within 20 days.

AUTO STANDARD MILEAGE ALLOWANCE

The Internal Revenue Service standard mileage allowance will decrease for 2010 to \$.50 for each business mile (from the 2009 \$.505 per mile).

RETIREMENT PLAN WAGES

The maximum amount of annual compensation that can be used in determining contributions to retirement plans increases to \$245,000 for 2009 (from \$230,000 in 2008).

TAXABLE FRINGE BENEFITS

Taxable fringe benefits are reportable for withholding and employment tax purposes. Form W-2 is used to report an employee's taxable fringe benefits. Form 1099 should not be used. All extra cash compensation (Christmas bonuses, prizes, awards, etc.) must have all payroll taxes withheld regardless of the amount of compensation involved, whether paid by cash or by check. Noncash gifts of nominal value (such as turkeys, hams, etc.) are not subject to withholding.

The employer may report the value of benefits annually rather than monthly or quarterly. For administrative convenience, the employer can elect a special accounting rule under which the employer can report the value of noncash benefits for November and/or December as paid in the subsequent calendar year. If the employer elects this rule, he must notify the employee directly at or near the time the employer provides the employee with Form W-2. The election is made on a per benefit basis, not on a per employee basis.

Group-Term Life Insurance

Employers must show the cost of group-term life insurance purchased for their employees in excess of \$50,000 in Box 12 of Form W-2, along with the code "C". This amount also must be included in box 1 (wages, tips and other compensation), in Box 3 (social security wages), and in Box 5 (Medicare wages) up to the appropriate wage base amounts. The employer also must show the FIT and FICA taxes withheld on the taxable portion of group-term life insurance in Boxes 2, 4 and 6 respectively.

S Corporation Shareholders

S Corporations are required to include in wages on form W-2 the cost of accident and health insurance premiums, group term life insurance and disability insurance premiums paid on behalf of each 2% (or greater) shareholder-employee. If coverage is provided under a plan, the cost is not subject to FICA taxes. Note that these shareholders may not participate in Section 125 or 129 plans.

NONRESIDENT TAX AND WITHHOLDING REQUIREMENTS

1997 Ohio legislation instituted tax and withholding requirements for nonresident shareholders in S corporations, nonresident partners and nonresident beneficiaries of trusts receiving income from real or personal property located in Ohio. These were effective for taxable years beginning after December 31, 1997.

The tax is generally calculated as:

- A withholding tax of 5% of a nonresident individual's share of the pass-through entity's adjusted profit apportioned to Ohio. Part year Ohio residents are considered nonresidents. Note that the withholding tax applies to income, not to distributions.
- An entity tax of 8.5% on all other qualifying investors' share of the pass-through entity's adjusted profit apportioned to Ohio.
- A withholding tax of 5% of the distributions of a qualifying trust's adjusted profits to full-year and part-year nonresidents.

Estimated tax payments may be made based on current year's income or prior year's income. If these requirements apply to your company, contact our office so we may assist you in complying with these estimated tax rules.

EMPLOYEE BUSINESS EXPENSES

Employee business expense reimbursements and allowances are not subject to FICA, FUTA, or federal income tax withholding if the arrangement is considered an "accountable plan". The IRS defines an accountable plan as an expense account arrangement in which the employee must substantiate for his employer the expenses covered by the arrangement. Specifically, to meet this criteria the plan must satisfy three requirements: 1) the arrangement must provide advances or allowances for job-related business expenses, 2) the employee must be required to substantiate each business expense within a reasonable period of time, and 3) the employee must return to the employer, within a reasonable time, any excess over the amounts substantiated. If a plan does not satisfy all three requirements, all amounts paid in excess of the amounts substantiated must be included in the employee's gross income, must be reported to the employee on his W-2 and are subject to withholding and employment taxes (FICA and FUTA).

MINIMUM WAGE

The current **federal** minimum wage is \$7.25. per hour

The **Ohio** minimum wage is \$7.30 effective January 1, 2009. The **Ohio** minimum wage for tipped employees is \$3.65 per hour plus tips.

COMMERCIAL ACTIVITY TAX

All entities are subject to Ohio CAT tax if gross receipts are greater than \$150,000 for the year. If gross receipts are under \$1,000,000 there is an annual filing requirement with a \$150 minimum tax. The due date for this return has changed for 2010 to May 10, 2010 (from the previous years of a February due date).

If gross receipts are greater than \$1,000,000, then taxpayers are required to file on a quarterly basis. Due dates for the 2010 quarterly CAT returns have also changed for 2010. These due dates are May 10, August 10, November 10, 2010 , and February 10, 2011. This is the tenth day of the second month following each tax period.

OHIO E-FILING MANDATE

Beginning January 1, 2010, tax return preparers who filed more than 75 tax returns during the 2008 calendar year must use electronic filing technology to file state income tax returns (IT-1040, Ohio Individual Income tax return).

PENALTIES

The penalty for failure to make timely deposits of payroll taxes is 2% of the underpayment if paid within 5 days, 5% of the underpayment if paid within 15 days and 10% of the underpayment if paid after 15 days, and 15% for amounts still unpaid more than 10 days after the first IRS notice asking for payment. It is important that the depository rules be understood and followed carefully by employees handling payroll. Please see your Circular E for detailed instructions.

Please be advised that we have attempted to cover the essentials of the year-end tax filing requirements along with any applicable changes for the New Year. If you have any questions or comments regarding the various items discussed in this letter please contact our office.

BEST WISHES FOR 2010

Sincerely,



Mira + Kolena, Ltd.