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THE AMERICAN INSTITUTE OF  
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SECTION OF THE AICPA

**MEMO: 2018 Year-end Payroll Reminders**

**December 21, 2018**

We are providing this information to facilitate filing complete and accurate 2018 year end payroll tax returns (W-2, 941, 940, VA-5, VA-6, etc.) for businesses that engage us to process their payroll tax returns. It may also be a useful guide for businesses that process their own payroll or use other 3<sup>rd</sup> party payroll processors. However, if you are using a 3<sup>rd</sup> party payroll processor (such as ADP, Paychex, etc.), then refer to the checklist or letter provided by the payroll service for year-end procedures and deadlines. Let us know if you have questions.

**The due date for filing Forms with the Social Security Administration and the Virginia Department of Taxation is January 31, 2019, the same as the date for giving employees their W-2s.**

Be sure to provide or include the following:

1. All payroll checks paid (taking into account any pay checks that may have been voided).
2. Bonuses paid (including cash bonuses). Taxes should be withheld from all cash payments that are not expense reimbursements. Call us if you need to gross-up these cash payments for taxes.
3. Employee pension information: identify employees who actively participated in the Company plan, including 401(k).
4. Group term life adjustments (for group coverage in excess of \$50,000) and subject to FICA.
5. Year-end fringe benefit adjustments (for example, personal use of automobile) subject to FICA. For automobiles, complete the attached form, *2018 Employee Representation Regarding Use of Company Vehicle*.
6. Health and accident insurance paid by an S corporation on behalf of 2% or more shareholder employees, which has to be included in W-2 in order to deduct as self-employed health insurance.
7. Correct employee names. Check if any have changed (for example, has anyone gotten married and changed name with the SSA?).
8. Check to be sure that all of the employee addresses are correct.

**Note: Important Information for S Corporations on page two.**

**Health Reimbursement Arrangements under the Affordable Care Act, IRS Notices 2013-54 and 2015-17**

Base on its interpretation of the Affordable Care ACT, the IRS issued Notice 2013-54 which provides an excise tax of \$100 per day on employers that provide an “employer payment plan” in which the employer reimburses two or more employees for his or her substantiated health insurance premiums. The maximum penalty is \$36,500 per employee per year. IRS Notice 2015-17 provides some relief for this penalty. The penalties do not apply to group plans covering fewer than two current employees. *See page two for a discussion of the relief provided S Corporation owners.*

**Caution:** the 21<sup>st</sup> Century Cures Act changed the rules for Health Reimbursement Arrangements (HRAs) for small employers of less than 50 employees. HRAs must meet certain requirements and employer contributions are limited.

Contact our office if you have additional questions.

**Additional information for S Corporation shareholders:**

Because of the Affordable Care Act (ACA), owners of S Corporations who have paid or reimbursed individual medical insurance premiums for its 2% or more owner/employees were subject to an excise tax. The \$100 per day excise tax continues to be delayed (Code Sec. 4980D). The IRS has provided transitional relief in IRS Notice 2015-17 (for background see IRS Notice 2013-54). As you know, S Corporations cannot deduct health insurance premiums paid for more than 2% shareholders. An arrangement in which the S Corporation pays or reimburses the employee shareholder's health insurance is known as a "2% Shareholder-Employee Healthcare Arrangement".

The transitional relief provides that an S Corporation with a 2% Shareholder-Employee Arrangement will not be subject to the \$100 per day penalty and will not be required to file IRS Form 8928 for failure to comply with the requirements for group health plans under ACA. However, this transitional relief is only available until the IRS issues additional guidance.

We continue to monitor whether the IRS changes its position in the future on the treatment of S Corporation shareholders.

Therefore, in our opinion, an S Corporation shareholder (owning 2% or more of stock) may get a deduction for premiums paid under these two circumstances for 2018:

1. S Corporation pays the premiums: the company-paid premiums are reported as compensation on the shareholder's Form W-2 subject to income tax but not to Social Security and Medicare tax withholding.
2. Shareholder Pays the Premiums and Is Reimbursed: The shareholder who pays the premiums must be reimbursed by the S corporation to claim the deduction. The premiums are reported as compensation on the shareholder's Form W-2 and is subject to income tax but not Social Security or Medicare tax withholding.

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