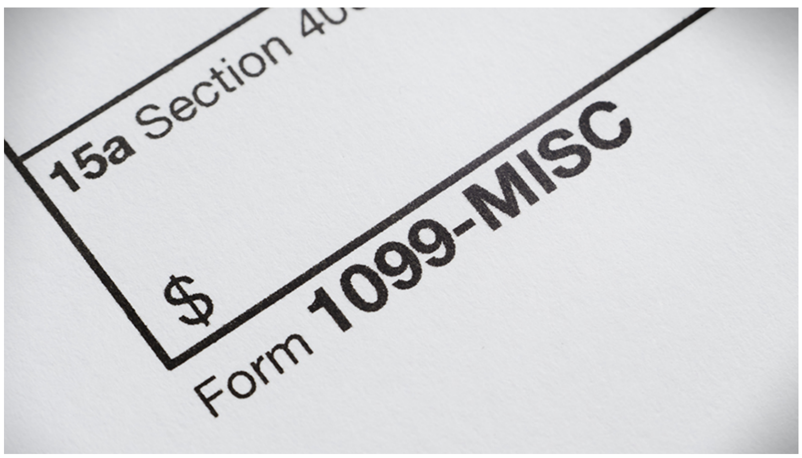
Year-End Insight 2018

New Pennsylvania 1099-Misc Withholding Tax Requirements

By Deborah L. Redding

Act 43 of 2017 created a tax-withholding obligation for certain payors of Pennsylvania-source income and lessees of Pennsylvania real estate to nonresidents. Beginning January 1, 2018, anyone that makes certain payments is required to withhold 3.07% from such payments and remit the withholdings via e-Tides. Payors will file the related 1099-MISC forms with the department in January of the following year.



Applies if all of the following are true:

- » A payor makes payments of non-wage income from Pennsylvania sources for the following:
  - Non-Employee Compensation
    - Someone who is not your employee
    - For services in the course of your trade or business
  - Lease Payments
    - Payment includes, but is not limited to, rents, royalties, bonus payments, damage rents, and other payments made pursuant to a lease
    - A lessor includes only individuals, estates, and trusts
- » Payments will exceed $5,000 per payee in the calendar year
- » The payment is made to a resident of another state

Withholding on payments typically applies to:

- » Individuals who do not live in Pennsylvania
- » Business entities that do not have a permanent place of business in Pennsylvania
- » Estates whose decedent was not a Pennsylvania resident at the time of their death
- » Trusts with no Pennsylvania resident settlors

Does NOT apply to:

- » Wages paid to employees
- » Payments for goods and materials
- » Sales of real estate located outside of Pennsylvania
- » Residential rental agreements or residential lease payments

Not required when:

- » The payee is a corporation
- » The payee is a partnership or multi-member liability company
- » The payee is a nonresident with no PA source income
- » The payee is a disregarded entity owned by a corporation or partnership

When to start withholding:

- » Total payments of less than $5,000
  - Withholding is optional
  - If the payor is unsure of the total amount of payments that will be made during the year, the Department encourages them to withhold and remit income tax from all payments made
- » Payments of more than $5,000
  - The payor should attempt to withhold the total amount of tax due for the total annual compensation on any subsequent payments
  - However, the Department is not expecting the payor to withhold/remit tax on a payment that is greater than the payment to the payee

Account number options:

- » Use current Employer withholding account
  - Combine payroll tax withholdings with non-resident withholdings
  - Deposit schedule will follow Employer withholding
- » Register for an additional new 1099-MISC withholding account
  - Online PA-100
  - www.pa100.state.pa.us
  - Deposit schedule is based on the amount withheld from payments

Annual 1099-MISC filing requirements:

- » All 1099-MISC forms are due by January 31st of the following year, even if no tax was withheld
- » 1099-MISC forms - No tax withheld
  - Copy of forms only
  - Can remit by paper
- » 1099-MISC forms - Tax was withheld
  - Must file Form REV-1667 (Annual Reconciliation)
  - Remit via e-Tides or by paper

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Backup Withholding Rate Drops in 2018

By Cindy A. Carothers, CPA

The Tax Cuts and Jobs Act of 2017 reduced the backup withholding rate from 28% to 24% effective January 1, 2018. Backup withholding may be required if the payor has failed to obtain a correct taxpayer identification number (TIN) for a 1099 recipient and the IRS has notified the payor to start backup withholding.

Payments that may be subject to backup withholding include interest payments (Form 1099-INT), dividends (Form 1099-DIV), patronage dividends if at least half of the payment is in money (Form 1099-PATR), rents, profit or other income (Form 1099-MISC), payments by brokers and barter exchange transactions (Form 1099-B), payment card and third-party network transaction (Form 1099-K), and royalty payments (Form 1099-MISC).

To help avoid any reporting problems, it is recommended the payor provide a W-9 form to the payee to obtain the correct information for tax reporting. If the payor receives a notice from the IRS that a name or TIN is incorrect, they are required to start backup withholding unless the payee provides corrected information or certifies the original TIN they provided was correct. If the payor receives a second notice from the IRS indicating name and TIN still do not match, the payee will need to provide a copy of their social security card that shows the correct name and SSN to stop any backup withholding by the payor. ♦

New Pennsylvania 1099-Misc Withholding Tax Requirements

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Failure to comply:

» If the payor fails to withhold and remit the required Pennsylvania Personal Income Tax
- The Department can collect the Personal Income Tax from the payor
- If the payee pays the tax, the Department can collect interest and penalties from the payor
- Assessments will be added after July 1, 2018

More information:

» PA Departments Website - Nonresident Withholding
- 1099-MISC Withholding Exemption Certificate for vendors
  - Form Rev-1832
  - Keep for 5 years or until new form is received
  - Best practice to send with Form W-9 to all vendors ♦

Check Out the Blog!

We have been busy revamping our blog and keeping it fresh by posting new content regularly!

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About Our *Insight* Newsletter

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W-2 Electronic Filing Threshold Reduced

The Pennsylvania Department of Revenue (DOR) has amended its withholding regulations to reduce the threshold for filing the annual withholding reconciliation statement (Form REV-1667) electronically from 250 to 10 or more W-2 forms beginning with 2018 tax year forms filed in 2019. **Important: Employers are now required to e-file W-2s if there are 10 or more forms!** The deadline for filing the forms with the DOR is January 31, 2019. ♦

Beginning January 1, 2019 the standard mileage rate for business use of autos will increase to 58 cents per mile, up 3.5 cents from the 54.5 cents per mile rate in 2018. The medical or moving rate will increase to 20 cents per mile, up from 18 cents per mile in 2018, and service to a charitable organization will remain unchanged at 14 cents per mile. ♦

Wayfair Decision Brings Change to Remote Sellers

By Victoria A. Fiorino, CPA, MBA

On June 21 2018, the U.S. Supreme Court ruled on South Dakota v. Wayfair Inc., a decision that brings significant change to a long-established precedent relating to sales and use tax nexus standards.

Sales tax nexus occurs when a business has some kind of minimum connection to a state. All states have a slightly different definition of nexus, but until recently, the standard was physical presence. Physical presence could mean a number of things, including: having an office, an employee, a warehouse, an affiliate, or storing inventory within a state. The physical presence rule has long been critized as giving remote sellers an advantage.

The state of South Dakota passed a law in May of 2016 with the intent of collecting sales tax from remote sellers due to the state from purchases made by in-state residents. The South Dakota law established various safeguards for vendors and required only those with sales over $100,000 or with more than 200 different transactions to residents in the state to collect taxes. Furthermore, the South Dakota law applied prospectively only (not retroactively), and further included provisions whereby it would not take effect until a final court ruling on its constitutionality.

Prior to the South Dakota law coming into force, the state sent out notices of lawsuit to four of the largest out-of-state vendors that the state believed would exceed the sales threshold and were not already collecting sales taxes: these included Wayfair, Overstock.com, Newegg, and Systemax. Of these, Systemax did not challenge the state, and followed through with registering to collect sales tax for purchases made by South Dakota residents. The other three companies refused to comply, maintaining the decision from *Quill Corp. v. North Dakota*, 504 U.S. 298 (1992) that a business must have a physical presence in a state for that state to require the business to collect sales taxes.

The state of South Dakota determined the only way it would be able to succeed in its lawsuit against the three companies was to ask the Supreme Court to repeal the physical-presence requirement of *Quill*. The US Supreme Court issued its decision on June 21, 2018, with the court split 5-4. The majority opinion determined that the physical-presence rule of *Quill* was “unsound and incorrect” and overruled it.

Although there was only one decision by the Supreme Court, the 45 states that impose a sales and use tax now have the ability to make their own decisions regarding what that means to their state, including definitions, rules, and dates. There will be more complicated reporting procedures for businesses that meet the states’ economic threshold, which calls for new or improved software to handle the complexity.

What we know for certain is the physical presence requirement is no longer necessary to create sales tax nexus. South Dakota’s law seems constitutional based on the commerce clause, and over 30 states have South Dakota-like sales tax statutes currently in place. If you are in the business of remotely selling (internet sales, using common-carriers) to out-of-state customers, please contact your SEK advisor to discuss the impacts of this change. ♦

QuickBooks® Desktop 2019 Released

By Melissa A. Hahn, CPA

Intuit released QuickBooks® 2019 in late September. This includes both the Windows version as well as the Mac version. Some of the new features include:

- » Invoice history tracker
- » Transfer customer credits between jobs
- » Prompt to use the bill payment feature when writing a check
- » Employee pay adjustment history report
- » Improved sick and vacation pay tracking

If you would like to know more about any of these features and how they could help your specific processes, please contact your local QuickBooks® Pro-Advisor. You can upgrade your version of the program each year if needed, but you are required to upgrade every third year. Due to this Intuit Policy, all support, payroll tax tables, and connected services will end for QuickBooks® 2016 on May 31, 2019. Please contact us for an order form which offers the product at a discount! ♦

Tax Calendar

January 31, 2019

- Furnish copies of Form W-2 to employees and Form 1099 as required to other payees
- File Form W-2, Copy A, along with Form W-3, to the Social Security Administration
- File most federal, state, and local payroll tax returns and final payments for 2018
- File Form 1096 and Form 1099-MISC for forms reporting non-employee compensation

February 15, 2019

- Begin withholding income tax from employees who claimed exempt status in 2018 but did not submit a Form W-4 for 2019

February 28, 2019 (Paper Filing)

- File Forms 1096 and 1099 reporting all other amounts besides non-employee compensation
- File Form 8027, Tip Income & Allocated Tips

April 1, 2019 (Electronic Filing)

- File Forms 1096 and 1099 reporting all other amounts besides non-employee compensation
- File Form 8027, Tip Income & Allocated Tips

April 30, 2019

- File most federal, state, and local payroll tax returns for the 1st quarter of 2019

July 31, 2019

- File most federal, state, and local payroll tax returns for the 2nd quarter of 2019

October 31, 2019

- File most federal, state, and local payroll tax returns for the 3rd quarter of 2019

Bipartisan Budget Act Regulations

By Mark W. Quigley, CPA, CLU, ChFC, QPA, QKA

Recently, the IRS issued proposed regulations as a result of the Bipartisan Budget Act of 2018 (BBA) that provide new guidance on hardship distributions impacting 401(k) and 403(b) plans. Generally, the changes will make it easier for participants to get, and get more of, their vested account balance when requesting a hardship distribution while reducing/removing many of the perceived or so-called penalties associated with taking a hardship distribution.

Three primary changes to the current hardship distribution rules include:

» Participant will not be required to take plan loans before a hardship distribution is available;

» Participant will not need to have salary deferrals suspended for six months following a hardship withdrawal; and

» Plans will be able to distribute other sources of participant's vested account balance previously prohibited - qualified nonelective contributions (QNECs), qualified matching contributions (QMACs), safe harbor contributions, and earnings from all eligible sources including post-1998 earnings on elective deferrals.

While these changes for 401(k) plans will take effect for plan years beginning after December 31, 2018, plan sponsors will need to adopt necessary amendments. It is expected that pre-approved plan sponsors will provide further direction once the proposed regulations become law.

While many believe it was Congress' intent to have the same changes apply to hardship distributions from 403(b) plans, certain critical IRC sections were not amended by the BBA, resulting in the need for further clarifying guidance here. The treasury Secretary has until early 2019 to modify the current 401(k) regulations to reflect the new hardship distribution rules.

While the above is a brief summary of the broader and more widely impacting proposed hardship rule changes, other proposed changes and effective dates of certain changes are included in the proposed regulations. SEK will be providing its retirement plan clients with further information as it becomes available. Others may want to review with their own plan provider to see if these items affect their plan.

UPDATE: The IRS proposed regulations clarified that the home casualty reason for hardship does NOT have to be a federally declared disaster area. This was originally discussed in the Summer 2018 Insight newsletter as a possible unintended consequence of the Tax Cuts and Jobs Act of 2017 for those 401(k) and 403(b) plans that follow the 'safe harbor' standard for hardship distribution. ♦

Firm News

In November, our firm rebranded as SEK, CPAs & Advisors and unveiled a new logo. With the compass representing us, our pledge to provide our clients with direction and peace of mind is clearly demonstrated. Learn more on our blog!

SEK CPAs & ADVISORS

Our Hagerstown office has moved! SEK and the Washington County Chamber celebrated with a ribbon cutting on November 29.

The Chambersburg office collected various items for donation for the Greencastle Food Pantry for the holidays.

SEK's Young Professionals Committee coordinated a firm-wide business clothing drive for two local charitable organizations.

Helpful Documents: Visit www.sek.com/publications to view our Payroll Tax Bulletin, Rates & Dates, Records Retention Schedule, and more!

Helpful Tips to Wrap Up Your Year in QuickBooks®

By Melissa A. Hahn, CPA

December is a very busy time of year. It's time to review your records to make sure employee and vendor information is correct in order to process W-2s and 1099 forms. It is also a good time to review some key areas of your QuickBooks® file to make sure transactions are recorded properly to ensure a smooth tax preparation process.

The most important task to complete before your file is ready for tax preparation is to reconcile your bank accounts and credit card accounts. Review the *Undeposited Funds* to make sure nothing is "stuck" in there. Also, take note of the *Make Deposits* screen to ensure there are no old transactions. Make a list of old outstanding checks that need to be written off.

The *Balance Sheet* is an important report to review. Many small businesses tend to focus on the *Profit and Loss Statement*, but the *Balance Sheet* should be analyzed as well. For tax return preparation, the fixed asset accounts should be reviewed for new purchases and appropriate documentation gathered. Check loan accounts to make sure payments were posted each month. Statements are usually provided to adjust the interest paid during the year.

Another review step is to look at your *Profit & Loss Statement*. Be sure to include the column for prior year numbers to compare each account. We usually look for larger variances and then drill down to see if there are identifiable transactions that caused a difference. This procedure can uncover posting errors or reveal transactions that require additional documentation (such as a fixed asset purchase).

Run *Aging Reports* for both Accounts Receivable and Accounts Payable to ensure amounts are proper. If there are errors, SEK can help write off bad debt or enter credit memos to make corrections.

Taking some time to review these items now will save a lot of time and questions later. The goal is to help you run your business, and the key is to have reports that are reliable and correct!

We are always happy to provide QuickBooks® support, monthly reconciliation services, quarterly reviews, and year-end planning services. Contact us today! ♦