

■ PARTIAL TAX RELIEF

The IRS has launched a new Voluntary Classification Settlement Program (VCSP) to provide employers with an opportunity to reclassify independent contractors as employees and obtain substantial relief from federal payroll taxes they may have owed for past misclassifications.

Interested employers must file Form 8952 at least 60 days before they want to begin treating the workers as employees. Employers accepted into the program will pay an amount effectively equaling just over one percent of the wages paid to the reclassified workers for the past year. No interest or penalties will be due, and the employers will not be audited on payroll taxes related to these workers for prior years. However, participating employers will, for the first three years under the program, be subject to a special six-year statute of limitations, rather than the usual three years that generally applies to payroll taxes.

To be eligible, an applicant must consistently have treated the workers in the past as non-employees, have filed all required Forms 1099 for the workers for the previous three years, and not currently be under audit by the IRS, the Department of Labor or a state agency concerning the classification of these workers.

Our small business and tax professionals can help you determine if this settlement program is appropriate for your business. Visit <http://www.bayliscpas.com/services/smallbusiness.php> to learn more about the small business services we provide.

This article contains information of a general nature and should not be acted upon without further consultation. Contact your tax advisor if you have questions about your particular situation.

■ INDEPENDENT CONTRACTOR OR EMPLOYEE?



Properly classifying a worker as either an independent contractor or employee can truly be a matter of dollars and cents for your business. Employers may incur fines and incur back taxes for errors in classification.

So what exactly is an independent contractor? There are many criteria specified by the Internal Revenue Service, the Department of Labor and the State of Florida which, when taken together, define an independent contractor. Generally speaking, there are three basic areas of control to consider.

BEHAVIORAL CONTROL: Does the independent contractor determine when, where and how they will perform services? Does he or she provide equipment to use and purchase supplies to perform the work? Does he or she hire and pay help to perform the work? If a worker is given less extensive instructions about

what should be done, but not how to do that work, the individual may correctly be an independent contractor.

■ INDEPENDENT CONTRACTOR OR EMPLOYEE? (continued)

FINANCIAL CONTROL: Does the independent contractor have a significant investment in the work? Is he or she reimbursed for some or all business expenses? Does he or she have an opportunity for profit or loss? If a worker incurs unreimbursed expenses and can realize a profit or loss for the work, the individual may be an independent contractor.

RELATIONSHIP OF THE PARTIES: Does the independent contractor receive employee benefits? Is there a written contract which shows the independent contractor and employer's business arrangement? Does the contract specify a finite period of time for which the services will be provided? Does the independent contractor perform services for other companies? If a worker receives no paid benefits, contracts services for a specific period of time or is not exclusively working for one company he or she may be an independent contractor.

We realize that these questions and statements are starting to sound somewhat like a Jeff Foxworthy stand-up comedy routine. We don't mean to be vague, but evaluating areas of control and subsequently determining a worker's classification can be difficult because the criteria to consider are quite extensive. We urge you to contact your tax advisor or attorney should you have questions about your particular situation.

Our professionals provide a wide range of tax compliance and planning services and can help you determine whether or not a worker should be classified as an employee or an independent contractor. Visit <http://www.bayliscpas.com/services/taxfinancial.php> to learn more about our services.

■ IRS CHANGES TAX TREATMENT OF BUSINESS CELL PHONES

The IRS has announced that employer provided cell phones provided to employees primarily for non-compensatory business purposes may now be considered a de minimis fringe benefit, eligible for exclusion from the employee's income. The cell phone must be provided because there are substantial reasons related to the employer's business, other than providing compensation to the employee, for its use. Cell phones provided to promote morale or good will, to attract a prospective employee or as a means of furnishing additional compensation to an employee would not be eligible for exclusion from the employee's income. Please contact your tax advisor to learn how this change impacts your particular situation.

■ CLOSING THOUGHTS



We are so glad that summer is coming to a close and more frequent pleasant weather is on the way. Please enjoy this quote from a classic American novelist on the joys of this month:

There is no season when such pleasant and sunny spots may be lighted on, and produce so pleasant an effect on the feelings, as now in October.

~ Nathaniel Hawthorne

Prefer an e-newsletter? Email info@bayliscpas.com

53 Lake Morton Drive · Lakeland Florida 33801 · 863-688-8841 · www.bayliscpas.com


baylis+company | PA
ACCOUNTANTS & ADVISORS