

Tax Compliance: Navigating Payroll, Energy Credits, and IRS Initiatives

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Presenters



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Learning objectives

After this presentation you will have a better understanding of compliance issues related to:

- Tax Complexities related to Payroll
- Energy Credits and Incentives
- IRS Initiatives



1

Current Tax Complexities Related to Payroll

Polling question #1



Creative Housing Solutions for Employees

Is the housing taxable to the employee?

Nontaxable housing must meet all three of the following:



Furnished on
business premises

Employee's place of work



Furnished for
employer's convenience

Substantial business reason



Employee must accept as
a condition of employment

Must live on business
premises to properly
perform their duties



Note: Different tests may apply to educational institutions



Creative Housing Solutions for Employees

- ▲ Cash allowances for housing – always taxable
- ▲ Taxable housing – include FMV as wages
 - Special noncash benefit reporting rules for withholding taxes
 - FMV determination – work with local realtor or leasing professional
- ▲ Intermediate sanctions possible
 - Directors, CEO, COO, CFO as well as their family members
 - FMV determination properly documented
 - Overall compensation package reasonable, including this perk
 - Must be properly reported on 990 and taxed if applicable

Creative Housing Solutions for Employees

Temporary Worksites

**Tax home =
principal place
of business**

**One year or
less away from
tax home**

**Nontaxable
expense
reimbursement**



Travel Expenses



Expenses incurred traveling between your **residence and your main place of business** (“tax home”) are considered commuting expenses and are taxable income if reimbursed.

Establishment of tax home essential –
see IRS Pub. 463



Expenses incurred traveling between your **residence and a temporary worksite** other than your tax home can be reimbursed and are not considered taxable income if reimbursed.

Subject to accountable plan rules
(providing receipts, expense report, etc.)

Moving and Relocation Expenses

- ▲ The TCJA effectively made all moving and relocation expenses (travel, lodging, house hunting expenses, etc.) taxable income to the recipient if paid by the employer.
 - Effective until 2025 when law “sunsets” unless extended.
 - Individuals may not deduct these expenses either, but of course must report the income.



Hiring Employees to Work Remotely in Another State

Factors to consider may include:

- 1 Recruitment and retention of employees
- 2 Regulatory compliance in other state(s)
- 3 Roles and responsibilities of employees
- 4 Permanent vs. temporary



Remote Employees

- ▲ Usually withholding depends on location of where the work is performed, rather than where the employer is located
- ▲ Variations:
 - Threshold requirements
 - Day count
 - Income earned
 - Convenience of the employer
 - Reciprocity
 - Residency in more than one state





Issues Requiring Attention for Remote Employees in Another State

- ▲ Payroll tax withholdings, state and local
- ▲ Unemployment insurance
- ▲ Sales and use taxes
- ▲ AG charity oversight and filings
- ▲ Franchise or business privilege taxes
- ▲ Secretary of State annual filings
- ▲ Tax exempt status recognition

Additional Considerations

1

Minimum wage and overtime pay, meal breaks

2

Paid family leave and paid sick leave

3

Disability benefits

4

Workers' compensation

5

Healthcare plans and other benefits coverage

6

Antidiscrimination laws and equal pay

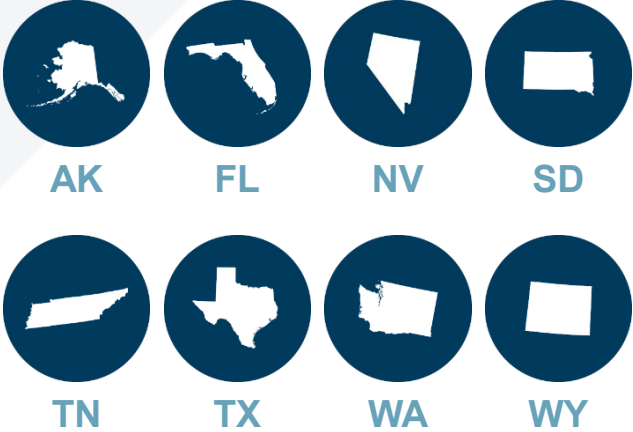
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OSHA reporting



Remote Employees

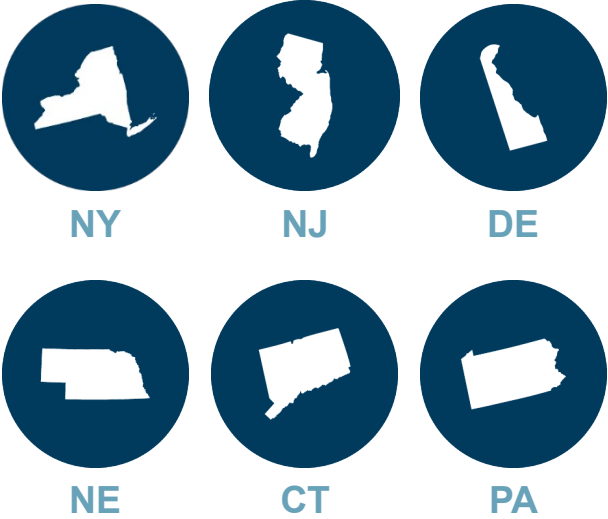
States with no income tax



Taxes only interest and dividends



States that base tax on where employer is located



Polling question #2



Best Practice

Create a policy – we recommend clients consider the following:

- ▲ **Identify** and compile the various state/local employment and tax law rules
- ▲ **Quantify** the potential financial and administrative costs
- ▲ **Evaluate:** does attracting the best and brightest, regardless of location, outweigh the additional tax, administrative cost, and risk of tax assessment (including interest and penalties) for failing to properly comply?
- ▲ **Craft and communicate** the policy, working with an employment attorney





Wage Transparency Laws

- ▲ Requirements to share pay scales (salary ranges) in job postings as well as benefits. Prohibit asking for salary history.
- ▲ Intent is to:
 - Close gender pay gap
 - Reduce discrimination
 - Promote fairer compensation practices
- ▲ States with transparency laws:
 - CA, CO, CT, MD, NV, NY, RI, WA
 - Most laws apply to remote positions as well
 - Certain cities in OH, NJ, NY have similar laws



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Energy Credits and Incentives

Energy Efficiency Incentives

- ▲ Renew America's Nonprofits:
 - <https://www.energy.gov/articles/biden-harris-administration-announces-45-million-improve-energy-efficiency-nonprofit>
 - Grants up to \$200,000 for installation of energy efficient materials in buildings owned and operated by a 501(c)(3)
- ▲ Conservation activity direct funding
- ▲ Extended Section 179D Deduction
 - Energy efficient commercial buildings deduction
 - Tax years beginning after 12/31/22



Energy Tax Credits

Direct payment option

1

Clean Vehicle Credits
30C, 45W

2

Investment Tax Credits
48, 48C, 48E

3

Production Tax Credits
45, 45Q,U,V, X-Z



Energy Tax Credits – Watch Dates

Direct payment option – tax years beginning after 12/31/22

1

Clean Vehicle Credits
1/1/23 – 12/31/32

2

Investment Tax Credits
Begin by 12/31/24

3

Production Tax Credits
After 12/31/22





3

IRS Initiatives



IRS Compliance Strategies

- ▲ Improper filing of 990-N
 - \$50k limit, supporting orgs, conducting charitable activities?
- ▲ Excise tax on excess compensation
 - Pay > \$1M
- ▲ Worker classification
 - Employee vs. IC
- ▲ Scrutiny of hospitals continues
 - Enough benefit to warrant privilege of exemption?

State of the IRS

- ▲ Resource constraints
 - EOs not “taxpayers”
- ▲ Demographic challenges
 - Record number of retirements
- ▲ Reorganization (Taxpayer First Act \$80B)
 - Continued congressional debate
- ▲ Communication challenges
 - New ee’s with limited knowledge
- ▲ Delays of six to nine months continue
- ▲ IRS database not updated—not accurate



Questions?

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