

Largo, Florida – Wednesday, July 30th, 2014

Officer Compensation

We have just finished the payroll reports for the 2nd quarter for our clients and I want to address Officer Compensation.

I know, I know-- you have no money-- however, when the economy took a nose dive, Congress pressured IRS to come up with revenue and one of the areas they suggested was more audits on the issue of Officer Compensation.

You'll remember my spiel when we first discussed opening your business that the law doesn't give me an specific percentage or dollar amount to assign to the Officer wages. We have to be careful though not to reduce the wages so low that IRS decides an audit is due.

The courts have ruled that there are nine points to determine Officer Wage

Duties and responsibilities of the shareholder

The time and effort spent on the business

Training and experience of the shareholder

What comparable businesses pay for similar duties

Dividend history

Salaries to NON-Shareholders

Compensations agreements

The timing and manner of paying bonuses to key workers

Any formula used to determine compensation

When we are calculating the wage portion of your compensation, we have to remember that I am working FOR you, not against you. That even if

you have zero money in the checking account, your mortgage was paid, your family ate that month and the kids' private tuition was paid...All considered compensation...

A good rule of thumb is 18% of what you take home is going to need to be taxes, so if you take \$4,000 out of the business each month, set \$720.00 aside for taxes---enough said.

Pre-Tax Health Plans Require more Documents

For years the employER has been able to take the premium from the employEE before any taxes are imposed on the earnings as long as the plan was part a "cafeteria" plan under the rules in Section 125. This offer is called a "Caf 125 Plan".

For years I've been harping that the ER must actually have a plan in its EE Handbook from which the EE can choose the benefits they want to participate in.

Well, now the Department of Labor has gotten into the act.

Generating income by performing audits of personnel files-- the DOL

is now requiring an additional document they are calling: The Summary Plan Description, (SPD).

Upon renewing my firm's health insurance plan, my representative told me about this requirement and offered to print me out one from his template. My suggestion is that you call your insurance

representative and ask if they know about it and will they do the same for your business.

I haven't seen it yet so I don't know how it compares with the Cafeteria Plan in your Handbook. I can't advise you any further.

Wage & Hour - Gotta Love 'Em.

I've just been informed that an attorney CAN make a federal case out of your employees not signing their time cards.

If a former employee goes to an attorney for wrongful discharge, missed overtime, etc., the first thing you will be asked to produce by their attorney is the employee's signed time cards and your Company Handbook explaining your company policies on everything from benefits to discharging employees.

Remember all those articles throughout the years I've been writing about having a policy manual regarding your company health care benefits or posting of wage minimums, USERRA, OSHA regulations, etc.? Well, with our litigious society, I'm getting more paranoid every day.

You have to rethink HOW your employees remit their time to you for paychecks. If it's on a calendar posted in the break room, have them sign each shift they worked right there on the calendar. Alternatively, there is a smartphone application your employees can download to clock in and out, it is called "Time Card". The Department of Labor will accept the phone identification as the EE's signature.

Whatever method your staff uses to get you the information, make

sure they sign it BEFORE they get their paycheck. I suggest as they turn the time card into your payroll department.

Employer Compliance

Immigration came out with a revised version of the I-9 form on May 7, 2013. Any new hire AFTER 5/7/13 must have this new version in their personal file or there is a \$1,000 penalty per infraction to the employer. Stiff penalty for simply continuing to use the old form!

I've provided a link to the new form below for your use. I suggest you check if any of your staff was hired after 5/7/13 and get them to complete the newer form and replace the one in their file now.

Use this link to see the revised I-9

<http://www.uscis.gov/sites/default/files/files/form/i-9.pdf>

Use this link to see the 2014 Labor Laws Poster

<http://www.dol.gov/whd/resources/posters.htm>