



Personal attention. Verifiable results.



2019

DMJ & Co., PLLC PRESENTS

Year-End Tax Planning for Business



DMJ & Co., PLLC | dmj.com

CERTIFIED PUBLIC ACCOUNTANTS | BUSINESS CONSULTANTS | WEALTH ADVISORS | HEALTHCARE PRACTICE CONSULTANTS


Member of CPAmerica Inc.



November 28, 2019

Dear Clients and Friends:

In case you have not heard, we are excited to announce our new Wilmington, NC office. Our partner there, Greg Miller, CPA has over 35 years of experience in public practice for clients in the Coastal Cape Fear area. We welcome our Wilmington-area clients!

 The purpose of this letter is to bring business year-end tax information to your attention as the calendar year 2019 draws to a close. Please carefully consider these items, how they may affect your business, and do not hesitate to contact us for further clarification on any of these matters.

Please note for 2019 business tax returns, our default delivery method remains electronic. Many of our clients already prefer an electronic copy because it is easier to store, secure, and share a copy with banks or other interested parties. **Simply let us know what email address is good to use for confidential matters, and we will email you a secure link that will allow you to download a PDF copy of your returns.** If you prefer to receive a USB with a copy, let us know, and we will do that instead. We can also set you up on our portal where a copy will be available. You can, of course, continue to opt for a paper copy.

One policy note. *Please return your engagement letter when it arrives in the mail. Our firm policy does not allow us to complete your tax return until we have this signed document.*

THE TAX CUTS AND JOBS ACT

This December will be the 2nd anniversary of the enactment of this landmark legislation. While a lot of time has passed since December 2017, we are still learning about how to comply with and plan for this act. Clarifying regulations continue to emerge from Washington, while many questions remain unanswered and much needed fine print remains missing.

GENERAL BUSINESS PLANNING CONCEPTS



Cash basis businesses that want to defer 2019 income into 2020 should consider sending end of year invoices very late so that customers do not remit their payment until 2020. Also, try to avoid having unpaid bills on hand at the end of the year so as to garner a 2019 deduction. Remember that expenses paid with a credit card are considered paid when charged, even if the credit card bill is outstanding at year end.

Accrual basis businesses that want to defer 2019 income into 2020 should defer providing goods and services until next year. This may or may not be a wise business decision – you will need to decide that for yourself.

However, note that the constructive receipt rules dictate that income is received when you have the right to it – just choosing to not take it does not defer the tax on it.

For additional deductions, consider establishing a retirement plan this year. A 2020 retirement plan contribution for 2019 is deductible in 2019, whether your business reports on the accrual or cash basis, as long as the payment is made by your business tax return deadline, including extensions.

If losses are expected, S corporation business owners should make sure that they have sufficient basis to deduct the losses on their tax return. Please see us for ideas on how to increase your basis before year end.

YEAR-END FORM W-2 REMINDERS

Remember that several year-end adjustments are needed for your W-2 filings. These include the following – contact us if you need assistance in calculating these amounts:

- If you provide a company vehicle to any employee (including company owners), the value of the personal use of the vehicle must be included in the W-2. This is income for federal and state withholding, FICA, Medicare, and federal and state unemployment tax purposes.
- For this and similar non-cash compensation, you obviously cannot withhold tax when there is no cash payment. Therefore, you need to calculate this additional W-2 income before the last payroll of the year so that you can withhold additional tax from the last cash payroll, if needed.

Action item. Include the income from personal auto use in the W-2 of any employee with personal auto use. Get with us and we will be happy to assist you with this calculation.

- If you provide group-term life insurance in excess of \$50,000 to employees, the value of the life insurance in excess of the \$50,000 must be included in the W-2. We can help with this calculation. Note that this should not be taken to read that the employer's payment of the life insurance premium for anyone does not represent taxable compensation. A life insurance plan must meet specific requirements to be considered group-term life. Payments of life insurance outside of these requirements is completely taxable compensation.

Action item. Include the income from excess group-term life insurance in the W-2 of all employees. We can assist with this calculation.

- For “S” corporations, the amount the company paid for accident and health insurance (including dental, cancer, long-term care, and other policies) must be included in the W-2 of certain shareholders (those owning more-than-2% directly or indirectly of the company, including spouses, children, parents, and grandchildren). The amount paid is taxable for federal and state withholding purposes, but is not taxable for FICA, Medicare, or federal and state unemployment tax purposes.

Note: The IRS has stated its intention to disallow the deduction for health insurance for more-than-2% “S” corporation shareholders if the company fails to include this health insurance in the W-2 of the shareholder.

Action item. Include the amount paid by the company for health, dental, and long-term care insurance for more-than-2% “S” corporation direct and indirect shareholders in their W-2 for 2019.

- Note that if the business pays for country club dues or similar social clubs for owners or officers and that membership is actually in the name of the individual instead of the business, then this payment is additional compensation and should be included in the W-2. It does not matter that the primary purpose of such use is for business marketing.

YEAR-END FORM 1099 INFORMATION REPORTING REQUIREMENTS

This requirement includes payments of \$600 or more for –

- Fees and other compensation for services.
- Commissions reduced by any repayment of current year’s (but not prior years) commissions.
- Interest and dividends. If the company pays dividends or is in the business of paying interest, the threshold is reduced to \$10 or more.
- Rents except for those paid to real estate agents. Rent paid by the real estate agent to the landlord is reportable gross (not net) of any commissions retained.
- Taxable prizes and awards paid in the course of business, such as by radio and television broadcasting companies, and incentive awards, such as those given to distributors by manufacturers.
- Fees paid for professional services to attorneys, physicians, and similar service providers.
- Royalties, annuities, pensions, and other gains, profits, and income.

This requirement does not apply to the following types of payments –

- Wages or other compensation reported on Form W-2.
- Payments of any type to corporations other than medical and healthcare payments and attorney fees.

- Payments of bills for merchandise, telephone, freight, storage, and similar charges. This exception does not apply when the merchandise is incidental to the receiving of services, such as auto or copier repairs from unincorporated providers.
- Payments to employees under an “accountable” plan of expense reimbursement.
- Salaries or profits paid or distributed by a partnership to the individual partners.
- Trust or estate payments to beneficiaries.
- Personal (non-business) payments for rent, interest, services, etc.
- Qualified achievement or safety awards of tangible personal property valued at \$400 or less.

Some other rules of note –

- For legal services, all payments of \$600 or more for legal services must be reported, even if the payments are to a corporation. For reporting purposes, it does not matter that the attorney retains only a portion of the payment as his or her fee, but that the payment is made to the attorney.
- Payments which included backup withholding must be reported on a 1099, regardless of the amount.
- Sometimes the structure of the business arrangement makes it difficult to determine when the payment was made. For information reporting purposes, amounts that are credited to, or set aside, for a taxpayer during a calendar year are constructively received and should be reported, although not actually received by the taxpayer. For this rule to apply, there must be no substantial limitation or restriction as to the time or manner of payment, or condition upon which payment is to be made. The amount payable must be available to the taxpayer so that he may draw it at any time and its receipt brought entirely within his own control and disposition.
- Where a payment is made in property other than money, the fair market value of the property at the time of payment is the amount subject to reporting.
- Direct sales of at least \$5,000 of consumer products sold to a buyer for resale, anywhere other than a permanent retail establishment, must be reported on Form 1099-MISC.
- Note that those who file 250 or more information returns are required to submit these forms electronically. Failure to comply with this requirement brings a significant penalty. We can assist you with this compliance.
- Rental activities that are considered a business should also consider filing Forms 1099. The IRS has said that failure to file Forms 1099 could jeopardize the position that the rental is a business; thus, the net income from this business would be subject to the 3.8% tax on net investment income *AND* the activity would not be a business for purposes of the Section 199A deduction on qualified business income.

Action item. Make sure that your company is in compliance with Form 1099 disclosure requirements. We can assist as needed. If you need our assistance with your 1099 requirements, please let us know no later than January 15.

Action item. Consider auditing your vendor files to make sure that you have a signed W-9 on file for each. If you do not, request one now.

Note: Penalties for failure to file correct information returns and/or to furnish correct payee statements have increased in recent years and are now subject to inflationary adjustments. There is no limitation on the penalties for intentional disregard to file. Information returns and payee statements include, for example, Forms 1098, 1099, W-2G, and W-2.

SETTING UP NEW EMPLOYEES

Please make sure that your system for onboarding new employees is following the requirements for items that need to be documented from an immigration perspective.



Consider looking over your employee files to make sure that you have a Form I-9 for all workers. Acquire the form where a copy is missing. Also, consider placing a copy of all I-9s in a separate file for easy access in the event of an immigration employment audit.

We are not human resource professionals and you should consider engaging one for HR matters.

EMPLOYEES OR INDEPENDENT CONTRACTORS



It is critical that business owners correctly determine whether the individuals providing services are employees or independent contractors. Generally, you must withhold income taxes, withhold and pay Social Security and Medicare taxes, and pay unemployment tax on wages paid to an employee. You do not generally have to withhold or pay any federal taxes on payments to independent contractors. However see a later section on NC withholding requirements.

If you classify some of your workers as independent contractors who are actually employees, please note that the government continues to pursue these issues. Your business could be required to pay unpaid payroll taxes, interest, and penalties. Your company could also be obligated to pay for employee benefits that it did not previously provide, as well as federal penalties.

The basic guidance is an “economic realities test.” How much control does your company have over the way workers perform their jobs? For example:

1. Do the workers in question determine how they accomplish their task, or do you closely supervise them?
2. Do they have other clients, or do they work full-time for you?
3. Do they receive payment for each job, or do you pay them on your schedule?
4. Do they own their own equipment and facilities, or does your company provide equipment, supplies, and office space?

These and other considerations are important in determining a worker’s status. If you have any questions, consult with us about the proper classification of your workers to avoid additional taxes and penalties.

NEXUS

Are you sure that you aren’t doing business in new states? Talk with us if this may be the case. Note that states are increasingly aggressive at pursuing out-of-state businesses for sales/use and income

taxes. Some indications that you may be doing business in that state include sending salespersons into that state, having payroll, leasing property, buying assets, etc.

Action item. Consult with us if you have activity outside of your home state or if you believe that you may have filing exposure in other states.

PLEASE NOTE THE WAYFAIR COURT DECISION

If your company is making sales out of state, it is now easier for those other states to force you to collect sales tax on those sales. Many states began enforcing this rule quite recently, so this is a good time to take a look at whether your company is correctly complying with these rules.

Action item. Consult with us soon on whether you have sales tax assessment and withholding requirements for your sales out-of-state.

LIFE INSURANCE

If your business has purchased and owns life insurance on employees, or is considering doing so, note that your business needs to comply with the “Notice and Consent” procedures. Failure to follow these rules can result in a future collection on the insurance policy becoming taxable income. Contact your insurance representative to make sure that this requirement has been addressed.

Action item. If the company carries life insurance on any employee, consult with your life insurance agent to make sure that you are in compliance with the “notice and consent” rules.

UNCLAIMED (ESCHEAT) PROPERTY



Unclaimed property consists of tangible and intangible property that has been abandoned, such as bank accounts, wages, refunds, utility deposits, and others. Any business entity in possession of unclaimed property is a potential “holder” of unclaimed property. North Carolina’s Unclaimed Property Law requires all companies and institutions operating in the State to examine their books and other accounting records on an annual basis to determine whether they are in possession of dormant unclaimed property. Once the holder determines the property held is abandoned, a good faith effort must be made to locate the owner. In some instances, a due diligence letter must be sent to the owner. Please note there are specific due dates that must be adhered to with respect to identifying unclaimed property and notifying owners. Holders must file the Unclaimed Property Verification Report (Form ASD-159) and other necessary forms along with any property to the NC Department of State Treasurer. If a business entity asserts it does not hold any unclaimed property, a Negative Report of Unclaimed Property (Form ASD-NEG) may be filed, to run the statute of limitations on unclaimed property reporting for that year.

North Carolina Department of State Treasurer Unclaimed Property Division encourages holders that are not currently in compliance with Unclaimed Property Laws to participate in a Volunteer Disclosure Program (VDP). This VDP allows a holder to conduct a self-examination of their books and records to determine if they hold property which is past due and reportable to North Carolina, and to remit such without being assessed interest or penalties.

Visit <http://www.NCCash.com/Reporting> or contact us for more information to ensure compliance.

Action item. Review on an annual basis outstanding checks over a reasonable number of days and attempt to follow up with the payee. Consider remitting and reporting the payments to the State Treasurer if due diligence was not successful. Consider filing a negative report to run the statute of limitations on that reporting period.

SOCIAL SECURITY LIMIT FOR 2020



The Social Security wage maximum for 2020 increased to \$137,700; thus, you will need to make sure that your payroll software settings are adjusted for this limit in 2020.

PENSION LIMITS FOR 2020

Be sure that your payroll systems reflect these amounts; there are some changes from 2019. The 2020 amounts include –

- 401(k) or 403(b) maximum deferral - \$19,500 (an increase from \$19,000 for 2019), plus an additional catch-up of \$6,500 (an increase from \$6,000) for those who turn age 50 or higher in 2019 and 2020.
- 401(k) maximum contributions from all sources in 2020 is \$57,000 (\$63,500 for those 50 or older). This is an increase of \$1,000 from 2019 for those under 50 (an increase of \$1,500 from 2019 for those age 50 or more).
- SIMPLE plans maximum deferral - \$13,500 (an increase of \$500 from 2019, plus additional catch-up of \$3,000 for those age 50 or older).

Consider whether your 401(k) plan should offer a Roth deferral option. For those who defer at the maximum amount, a Roth option allows the individual (economically speaking) to defer an additional amount represented by the tax on their deferral contribution.

Also, a new comparability profit sharing allocation plan can benefit small businesses by allowing owners to reach or approach the \$57,000 total contribution limit (\$63,500 with catch-up) for 2020 with less total required funding than a profit sharing plan that is integrated with social security or uses another allocation formula.



To make this change effective for 2019, your plan document would need to be amended by December 31, 2019. **DMJ Wealth Advisors' Qualified Plan Specialist, W. Brad Mann, JD, QPFC (bmann@dmjwa.com or 336.275.9886)** can help you analyze whether this makes sense for you.

FOREIGN BANK OR INVESTMENT ACCOUNTS

If you and/or any of your officers have any interest or signatory authority over any non-U.S. bank or investment accounts, please note that certain Treasury Department disclosures are probably required. The IRS has been aggressively auditing taxpayers in this area and penalties for non-compliance are significant. Foreign accounts include bank accounts, hedge funds, brokerage accounts, and other investments. Talk with us if you think that this requirement may apply to you. Please note that the due date is April 15, 2020, with a six-month extension available.

Other requirements exist for other foreign activities. Please make sure that you discuss any foreign investment, sales, purchases, or other activities with us.

TRAVEL PER DIEM RATES FOR 2020

The standard business mileage rate for 2020 is not available at the time of this letter’s publication to compare to 58 cents for 2019. Follow us on twitter, visit our website at dmj.com, or check with your DMJ tax professional for the latest information on this.

The per diem travel rates for hotels, and meals and incidentals are as follows. These rates actually took effect on October 1, 2019.

The reimbursement rates are:

High cost areas	
• Lodging	\$226 (previously \$216)
• Meals and incidental expenses	\$71 (unchanged)
Low cost areas	
• Lodging	\$140 (previously \$135)
• Meals and incidental expenses	\$60 (unchanged)

For NC and adjoining states, the only designated high cost areas are the following:

NC	None
VA	Washington DC metro area (all year except July and August) Wallops Island (from July 1 to August 31)
SC	Charleston (March 1 to October 31)
TN	Nashville

REDUCTION IN NC TAX RATES FOR “C” CORPORATIONS

The State of NC’s corporate tax rate is 2.5 percent effective for tax years beginning on or after January 1, 2019 (previously 3%).

COMPENSATION PAID TO A CONTRACTOR IN NORTH CAROLINA

This reflects new Senate Bill 523 signed by Governor Cooper on July 26, 2019. Under this bill, note that effective January 1, 2020, businesses are required to withhold state income tax on payments to any of the following –

1. A nonresident contractor, meaning a nonresident individual or entity who performs for compensation any performance, entertainment, athletic event, speech, or creation of a radio, film, or television program. A nonresident entity can be a foreign LLC, partnership, or corporation, which has not received a certificate of authority from the NC Secretary of State.
2. An ITIN contractor, meaning an individual who does not have a social security number who performs services in NC other than wages for compensation. An ITIN is issued by the IRS to a person who is required to have a taxpayer identification number, but does not have one and is

not eligible to obtain a social security number. The ITIN is a nine-digit number that begins with the number 9.

3. A person who does not provide a taxpayer identification number.
4. A person who does not provide a valid taxpayer identification number. Here the requirement is for compensation paid after the taxpayer is notified by the NC Department of Revenue that the number is invalid.

Details.

1. The tax is to be withheld at 4%.
2. The tax withholding requirement applies to businesses who expect to pay more than \$1,500 of annual non-wage compensation to a payee. The withholding requirement applies to all compensation paid when the total annual compensation is expected to exceed \$1,500 (not when it actually does exceed \$1,500). Retroactive withholding, on amounts when the total annual was not expected to exceed \$1,500, does not have to be withheld on later payments.
3. Payers should remit the tax to NC based on their existing NC withholding requirements.
4. Payers should report the NC withholding on form 1099-MISC. Payers must also annually file form NC-3 with the state, along with a copy of the forms 1099-MISC, to reconcile total withholding remitted to the total reported on forms 1099-MISC.

CONCLUSION

DMJ has a secure portal available for you to upload the electronic files that you need to send to us. Speak to your DMJ representative if you want to gain access to the portal.

In closing, DMJ is committed to improving our connection with each client. We encourage you to stay in contact and learn more about our services and relevant news by following us at:



twitter.com/dmjandco



linkedin.com/company/dmjandco



facebook.com/dmjandco



instagram.com/dmjandco



Receive monthly email updates and relevant tax news by joining our mailing list by contacting contact@dmj.com

Sincerely,

Learn more at dmj.com.

DMJ & Co., PLLC

Certified Public Accountants

TRIAD

GREENSBORO 336.275.9886

TRIANGLE

DURHAM 919.489.3393

SANDHILLS

SANFORD 919.774.4535

COASTAL CAPE FEAR

WILMINGTON 910.452.5260



Personal attention. Verifiable results.
DMJ & Co., PLLC



OFFICE LOCATIONS

DMJ & Co., PLLC

DMJ TRIAD: Greensboro

703 Green Valley Road, Suite 201, Greensboro, NC 27408

P: 336.275.9886 F: 336.275.1129

DMJ SANDHILLS: Sanford

509 W. Main Street, Sanford, NC 27332

P: 919.774.4535 F: 919.776.5929

DMJ TRIANGLE: Durham

3620 Shannon Road, Suite 200, Durham, NC 27707

P: 919.489.3393 F: 919.493.4918

DMJ COASTAL CAPE FEAR: Wilmington

265 Racine Dr., Suite 203, Wilmington, NC 28403

P: 910.452.5260 F: 910.452.5276

DMJ Wealth Advisors, LLC

703 Green Valley Road, Suite 201, Greensboro, NC 27408

P: 336.275.9886 F: 336.292.6695



DMJ & Co., PLLC



Certified Public Accountants | Healthcare Practice Consultants | Wealth Advisors | Business Consultants

Triad • Triangle • Sandhills • Coastal Cape Fear
dmj.com