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Dear Client:

As we approach the end of 2018, it is a good time to think of planning moves that may help lower your tax bill and stay compliant with various reporting requirements.

## **Tax Cuts and Jobs Act**

We have prepared a summary document which outlines some of the tax law changes due to the Tax Cuts and Jobs Act. To access the document on our webpage [www.hhh-cpa.com](http://www.hhh-cpa.com), please go to the **NEWS** tab and drop down to the **Tax Cuts & Jobs Act** link.

## **General Information**

Business records and documents should be up to date. You should have prepared minutes of your board meetings. The minutes should describe the nature of the meeting and include any compensation to the shareholder(s), including bonuses. Loans from the corporation should be documented in the minutes, as well as rents paid, and any other financial transactions between the corporation and shareholder(s). If you have inventories, you should take a physical count at December 31. Please remember that the due date for filing copy A of Form(s) W-2 and W-3, as well as Forms 1099-MISC reporting non-employee compensation, is January 31, whether you file using paper forms or electronically.

## **Capitalization Regulations**

Please review and update your asset capitalization policy. A sample policy will be provided upon request. The Internal Revenue Service's tangible property capitalization regulations are effective for years beginning on or after January 1, 2014 and provide clarity for business taxpayers who acquire assets or who own tangible property which they improve, maintain or repair.

Businesses may be able to take advantage of the "de minimis safe harbor election" to expense the cost of lower-cost assets and materials and supplies. The amount allowed to be expensed depends on whether the taxpayer has written accounting procedures in place and, if so, whether the taxpayer has an applicable financial statement. If the taxpayer has a *written* accounting procedure and issued applicable financial statements, costs can be expensed up to \$5,000 per item threshold. If a taxpayer does not issue financial statements, but has a written accounting policy, expenditures cannot exceed \$2,500 per item, beginning in 2016.

## **Business Asset Depreciation and Expense Deduction**

Under the new federal law, a 100% first-year deduction is allowed for qualified new and used property acquired and placed in service after September 27, 2017 and before 2023. This replaces the 50% first-year deduction allowed, for new assets only, acquired through September 26, 2017.

You should consider making expenditures for qualifying Code Sec. 179 property. The new federal law increases the maximum amount that may be expensed under Code Sec. 179 to \$1 million. If more than \$2.5 million of property is placed in service during the year, the \$1 million limitation is reduced by the excess over \$2.5 million. The expense election has also been expanded to cover additional assets including certain property used to furnish lodging. Also, now covered is certain nonresidential real property improvements. Please contact us regarding specifics.

The federal maximum depreciation allowance for passenger automobiles is increased to \$10,000 for the year the vehicle is placed in service, if bonus depreciation is not claimed. For passenger automobiles

eligible for first year bonus depreciation, the first-year depreciation allowance is increased by \$8,000, resulting in a total of \$18,000.

California does not conform to the federal bonus depreciation deduction or the Code Sec. 179 limits and passenger automobile depreciation changes.

### **Retirement Plan Contributions**

Please confirm the contributions that you have made to your plan so far in 2018. Contributions of employee elective deferrals to SIMPLE IRA and SIMPLE 401(k) plans are due 30 days after the month of the payroll deferral, making the final deposit due by January 30, 2019. Contributions of employee elective deferrals to 401(k) plans are due 15 business days after the month of the payroll deferral, making the final deposit due by January 22, 2019. The maximum contribution allowed for SIMPLE plans is \$12,500 (\$15,500 if you are age 50 or older). The maximum contribution allowed for 401(k) plans is \$18,500 (\$24,500 if you are age 50 or older). Any matching contributions or non-elective contributions are due by the due date of your return, including extensions.

### **Taxable Fringe Benefits**

Generally, the value of non-cash fringe benefits must be determined no later than January 31 of the following year. However, we recommend that you consider the impact of the fringe benefits you provide during the month of December to avoid penalties for not making timely payroll tax deposits.

### **Before you prepare W-2 forms for your employees' 2018 compensation, please review the following:**

Benefits, including holiday bonuses and amounts paid in cash or cash equivalents, such as gift cards, are included in payroll, regardless of the amount. De minimus fringe benefits, such as personal use of business equipment, gifts, etc. must be small in value and infrequent. These can be excluded from payroll.

If you paid for group-term life insurance over \$50,000 for an employee or a former employee, you must report the taxable cost of excess coverage in box 12 of form W-2, with code C. The amount to report is determined by using IRS Publication 15-B.

Contributions made by an employer to an employee's health savings account (HSA) are excluded from federal wages and not subject to federal employment taxes. No exclusion from wages or taxes is allowed for California payroll reporting. The 2018 contribution limits are \$3,450 for a self-only HSA and \$6,900 for a family HSA. An additional contribution of \$1,000 is allowed if the employee is age 55, or older, at year-end.

To comply with the Affordable Care Act, employers with 250 or more employees are required to report the cost of health benefits provided in box 12 of the form W-2 with code DD.

Please remember to check form W-2, box 13, retirement plan, if your employee is an active participant in your company's retirement plan. This includes qualified retirement plans, annuity, SEP, and SIMPLE plans.

There are restrictions associated with shareholder-employees who participate in Section 125 plans. Payments to the Section 125 plan for key employees, including shareholder-employees, are limited to a maximum of 25% of the total payments to the plan. Please check the total of shareholder-employee contributions to make sure that you are in compliance with this restriction.

**Employee Use of Company Vehicles** - If you provide a vehicle to an employee (including yourself, if you are an employee of your own corporation) that was used for both business and personal use, the value of the personal use must be included on the employee's W-2 and is subject to payroll taxes.

Written records must indicate the time and place of travel, the business purpose of the expense or use, and the mileage traveled for all employee use of business vehicles.

The following is a brief description of the four different methods that can be used to determine the value of the auto provided to the employee and what records need to be kept. For more detailed information, see IRS Publication 15-B.

1. **General Valuation Rule** -- Under this rule the value of an employer-provided vehicle to be included on the employee's W-2 is its fair market value (FMV). The FMV of the vehicle is the amount an employee would have to pay a third party in an arm's-length transaction to lease the vehicle in the geographic area where the employee uses the vehicle. Neither the amount the employee considers to be the value nor the cost you incur to provide the vehicle determines its FMV. The FMV is multiplied by the ratio of personal miles to total miles driven and the result is reduced by reimbursements, if any, received from the employee to determine the amount to include in the employee's income.
2. **Cents-Per-Mile Rule** -- Under this rule the value of an employer-provided vehicle to be included on the employee's W-2 is determined by multiplying the standard mileage rate by the total miles the employee drives the vehicle for personal purposes. The standard mileage rate for 2018 is 54.5 cents per mile, if you provide fuel. (If you did not provide fuel, you can reduce the rate to 49 cents per mile).

The cents-per-mile rate includes the value of insurance and maintenance (even if not actually provided during the period).

The cents-per-mile rule cannot be used if the value of an automobile exceeds \$15,600\* (\$17,600\* for trucks and vans) if first made available to an employee in 2018, or if the vehicle is driven less than 10,000 miles during the year. (The requisite miles are proportionally reduced for vehicles owned or leased less than one year). \*These are estimates as the final 2018 amounts have not been announced by the IRS.

3. **Commuting Rule** -- Under this rule the value of a vehicle provided to an employee for commuting is determined by multiplying each one-way commute (that is, from home to work or from work to home) by \$1.50. If more than one employee commutes in the vehicle, this value applies to each employee. This amount must be included in the employee's wages if not reimbursed by the employee.

The commuting rule can be used if you require the employee to commute in the vehicle and you have a written policy against using the vehicle for personal purposes, other than commuting. However, you cannot use it for a corporate officer, a director, or certain categories of control or highly compensated employees.

4. **Annual Lease Value Rule** -- Under this rule the value of an automobile provided to an employee is determined by its annual lease value. For an automobile provided only part of the year, use either its prorated annual lease value or its daily lease value.

Instead of excluding the non-personal value, you can include the entire annual lease value of the car in the employee's wages. The employee can then claim any deductible business expense for the car as an itemized deduction on his or her personal income tax return. However, your employee may receive little or no tax benefit from this method.

The annual lease value includes the value of insurance and maintenance (even if not actually provided during the period). It does not include the value of fuel for personal use. If fuel for personal use is provided, then it must be included separately in the employee's wages. The fuel may be valued at FMV, or at 5.5 cents per mile.

To determine the annual lease value of an automobile you must first determine the FMV of the automobile on the first date it is available to any employee for personal use, and then find the

lease value. The annual lease value table can be found on page 26 of IRS Publication 15-B. A link has been provided for your convenience: <http://www.irs.gov/pub/irs-pdf/p15b.pdf>.

For employees who are more than 5% owners, the compensatory nature of the personal use of the auto provided by the corporation should be well documented, in order to avoid dividend treatment.

Safe Harbor Rules -- Employers may implement written policy statements of “no personal use” or “commuting use only” of a company vehicle that will qualify as sufficient evidence corroborating an employee's own statement, without the need for a second set of records.

**Other Reporting Requirements under the Affordable Care Act (ACA)**

Applicable Large Employers, generally employers with 50 or more full-time employees in the prior year (including full-time equivalent employees), are subject to the ACA employer mandate, and must begin reporting “minimal essential coverage” (MEC) for their health plans.

Form 1095-C must be prepared and provided to each full-time employee. Form 1094-C is used to report summary information and to transmit Forms 1095-C to the IRS. These forms must be filed no later than February 28, 2019, if filed on paper, or by April 1, 2019, if filed electronically. Applicable Large Employers with 250 or more information returns to submit must do so electronically.

Employers that offer employer-sponsored self-insured coverage also use Form 1095-C to report information to the IRS and to employees. There are additional reporting requirements for self-insured employers.

Penalties will be charged for noncompliance with the employer mandate as well as the compliance reporting.

If you have not yet arranged for compliance with this reporting requirement, you should contact your payroll service to determine if this service is being provided. Please contact our office for information on how to meet the filing requirements.

Limitations and restrictions exist on the information provided, so please feel free to contact us with any questions you might have regarding to these or any other year-end tax strategies that we can assist you with or develop for you.

Sincerely,

Hunter, Hunter & Hunt, LLP