

# BULLETIN

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### Advisory Memorandum

- ◆ Health Care Reform Becomes Law

## POSSIBLE TAX-SAVINGS OPPORTUNITY FOR FICA TAXES PAID ON SEVERANCE

By: Cindy Barta, CPA

In a recent ruling, the U.S. District Court ruled that severance payments to workers are not subject to employment taxes. If you paid FICA taxes on severance pay in the past few years you may be eligible for a refund.

### Explanation of Court Ruling

The Court ruled that severance payments are wage-replacement social benefits, similar to social security benefits, which are intended to provide support to workers who have lost the ability to earn wages. These payments are not made to the employee for services or wages and therefore should not be subject to FICA taxes.

### What Happens Now?

It is likely the IRS will appeal this decision, and will not pay out any refunds during the appeals process. A protective claim for refund may be considered while awaiting the appeals process.

If you have paid or received severance payments in the past few years, please contact your HJN representative for further information or with any questions.

## HIRE ACT - WHAT IT MEANS AND HOW IT WORKS

By: Cindy Barta, CPA

The new Hiring Incentives to Restore Employment (HIRE) Act provides employers with a Social Security Tax exemption and an income tax credit for those who hire and retain unemployed individuals.

To qualify, a new hire must have been hired after February 3, 2010 and not been employed for more than 40 hours during the 60 days prior to his or her start date. In addition, the new employee cannot be a related party or be hired to replace another employee, unless the other employee voluntarily quits or was fired for cause. Employers must have each new employee sign an affidavit, Form W-11, which certifies they meet the definition of an unemployed individual. Employers should keep this completed form with their payroll records.

### Social Security Tax Exemption

The new law exempts employers from paying their 6.2% share of Social Security tax on all wages paid to qualified new hires from March 19, 2010 through December 31, 2010. The employee's share of Social Security and Medicare tax, however, must still be withheld and remitted.

The exemption is claimed on Form 941, Employer's Quarterly Federal Tax Return, beginning with the 2<sup>nd</sup> quarter of 2010. The exemption for wages paid to qualified employees earned between March 19 and March 31, 2010 is also claimed on the 2<sup>nd</sup> quarter Form 941 because the IRS wasn't able to update the form in time.

At the end of the year, the amount of wages exempted from Social Security tax is to be reported on his or her W-2 in box 12 using code CC.

(Continued on Page 3)

## YOUR HOUSE: TAXES, TAXES EVERYWHERE

By: Mark T Lindstrom, CPA, CFP®

Everyone knows it takes revenues to fund expenditures, but do you think our founding fathers or any of the early tax law writers would have ever dreamed of our current tax structure? We've got income tax, payroll tax, transfer tax, consumption tax, property tax, dedicated use fees, privilege taxes and other cleverly contrived charges. Some of these present planning opportunities, others don't.

Property taxes include state and local real estate taxes and car tabs and other personal property taxes to the extent they are billed based on the value of the property owned. Consumption taxes include sales and use tax, excise taxes and the like. These are charges based on sales price or use unit (e.g., per gallon, cubic foot, hour). Most states have sales and use tax systems and many have it as a primary or only source of tax revenues. Use tax, you ask? That's the tax most states require you pay on taxable items you buy from outside your home state if you aren't charged sales tax at purchase. Excise taxes, like gas and utilities taxes, are more hidden, but still included in the cost of those items.

Federal, state and even local income and payroll taxes are levied on income. This is a complex and varied body of taxes ripe with planning opportunities for entrepreneurs, investors, IRA-owners, philanthropists and more. It is also a predominantly self-compliance based system, which is sadly a playground for cheaters.

Transfer taxes include state inheritance and gift taxes, county registration fees, and the formerly unified federal gift and estate tax system that is scheduled to reunify next year at 2000 levels. While you can't make any long-term estate plans now, there are issues everyone with a Will or testamentary trust should consider to avoid 2010 pitfalls.

Call your HJN tax expert or me to discuss your planning opportunities with any of these taxes.

## IFRS IMPACT ON PRIVATELY-HELD COMPANIES

By: Jackie L Ross, CPA, MBA

The Securities and Exchange Commission has established 2014 as the year when companies that currently issue 10-K reports must convert to International Financial Reporting Standards (IFRS). Currently adopting these standards is optional for private companies. IFRS may provide a competitive advantage to private companies; however, direct and indirect costs of changing to IFRS can be quite significant.

### What does this mean for your business?

Here are some differences between IFRS and U.S. GAAP (Generally Accepted Accounting Principles):

1. IFRS does not allow the use of the LIFO inventory costing method.
2. U.S. GAAP is detailed and has industry specific guidance. In contrast, IFRS provides much less detail in terms of guidance and industry specific instructions.
3. Under U.S. GAAP, comparative statements are not required. However, IFRS requires at least one year of comparative information.

### How will the conversions to IFRS impact privately-held companies?

Private companies with international ties will likely follow public companies in the conversion to IFRS. In addition, other privately-held companies will likely change to IFRS shortly after the public companies do because U.S. GAAP will not remain current. This will force private companies to use IFRS to be up to date with accounting standards.

The shift to IFRS will significantly affect the global business environment and at some point, companies not using international standards may be at a disadvantage. Given that it takes an estimated two to five years to fully adopt IFRS, privately-held companies may want to begin to assess their ability to make the switch.

Please contact your HJN representative for further information or with any questions.

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## TAX TIDBITS

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- As of late May, Congress has still not commenced serious action on the estate tax, which is currently repealed for 2010 with a modified carry-over basis rule. The modified carry-over basis rule exempts \$1.3 million of gains. Excess gains carry through with the property to the heir who receives it. Many wills and trusts have been drafted with reference to law that at this point in time is entirely different than when drafted. You should contact your estate attorney to avoid some potentially wild unintended outcomes under the current law as it is for 2010.
- The Minnesota Research & Development Credit has undergone three major changes with the passage of HF 2695 better known as the "Jobs Bill." Effective for tax years beginning after 2009: 1) partnerships and S corporations qualify (only C corporations did previously); 2) the credit now equals 10% of the first \$2 million in qualified expenses (had been 5%) in excess of the base amount and 2.5% on expenses greater than the first \$2 million; and 3) the credit is refundable.
- The deduction for domestic production activities rises for years beginning after 2009 to 9% (6% previously) of the lesser of qualified production activities income (QPAI) or taxable income determined without this deduction (modified adjusted gross income, for individuals). It is further limited to 50% of qualified wages for the tax year.
- The Ninth Circuit Court of Appeals recently ruled that the courts and the IRS have no discretion to reduce the amount of late-filing penalties for tax-exempt organizations who fail to file Form 990 on time. Their ruling indicates the late-filing penalty is mandatory. As stated by Internal Revenue Code Section 6652, the formula for determining the late-filing penalty for exempt organizations with \$1 million or less in receipts is \$20 per day, up to \$10,000 or 5% of the organization's gross receipts, whichever is less. The formula for determining the penalty for exempt organizations with more than \$1 million in receipts is \$100 per day, up to \$50,000.

Please contact Robin Abrahamson, Mark Lindstrom, John Barghini or Marty Nergaard if you have any questions.

## STATE OF MINNESOTA LOSS OF RECORDS

*By: Kevin Graff*

During April 2010, the Minnesota Department of Revenue issued thousands of notices indicating they have no record of prior year tax returns being filed for certain taxpayers. This notice relates to a massive loss of tax returns relating to a system malfunction. If you receive this notice you will need to file a paper copy of your tax return for the year signified within 45 days of receiving the notice.

When sending your Minnesota tax return, remember to include a copy of your federal tax return along with all supporting schedules to:

Minnesota Department of Revenue  
Individual Income Tax Division  
PO Box 64599  
St. Paul, MN 55164-0599

Please contact us with any questions or if you receive a notice.

**(Hire Act – What it Means... continued from Page 1)**

### **New Hire Retention Credit**

An income tax credit may be claimed for each employee who qualifies for the Social Security tax exemption. To receive the credit, the qualifying employee must remain an employee of the employer for 52 consecutive weeks. The credit is the lesser of \$1,000 or 6.2% of taxable wages paid by the employer during the 52-week period. The credit is claimed on the 2011 income tax return.

Please contact your HJN representative with any questions.

**We are planning an informational seminar this summer covering the latest health care reform. Watch for upcoming details for date, time and location.**

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## HJN & CO. THE INSIDE SCOOP

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**SUMMER OFFICE HOURS:** It's that time again. The firm has adjusted office hours for the summer – May 1 through September 3. Hours for that time period will be:

<b>Monday – Thursday</b>	<b>8:00 a.m.-5:00 p.m.</b>
<b>Friday</b>	<b>8:00 a.m.-2:00 p.m.</b>

As always, client service is our top priority and will not be affected by our summer hours. Our voice message system is available at all times so your messages will be responded to in a prompt manner.


**Congratulations! to Chris Dolan**, or our Audit and Accounting department. Chris has successfully passed all four parts of the CPA examination on the first attempt. **Terrific accomplishment, Chris!**

**Beverly Jergenson** celebrated her 5<sup>th</sup> anniversary with HJN in April. Our congratulations and thanks to **Beverly** for her contributions to the firm marketing program and support to client service.

Once again this year **Karis Madden** joined the administrative department to help us through the busy months of March and April. We appreciate her dedication to HJN and our client service. **Thanks again, Karis.**

We say good-bye to **James Nelson**, of our Audit and Accounting department. We thank him for his service to our clients over the past year-and-a-half. Our best wishes go with **James** for success in his future endeavors.

The 18<sup>th</sup> Annual Susan G. Komen Twin Cities Race for the Cure is one of the largest race events held each year in Minnesota. **Jackie Ross**, or our Audit and Accounting department, her husband, **Adam**, and son, **Jacob**, were among the estimated 50,000 women, men and children participating in the 5K run/walk to raise money for breast cancer research on Mother's Day, May 9. In 2009, more than \$2 million was distributed to help fund national research and statewide breast cancer screening, education and treatment programs targeting medically underserved Minnesota women. **Thank you Ross family** for your contribution to this great cause.

	<p>Because most of the matters in this Bulletin are generalizations due to space limitations, they should not be regarded as offering a complete explanation and therefore should not be the basis for making decisions. Please contact the Hansen, Jergenson, Nergaard &amp; Co., LLP executive serving you if you desire to pursue items which interest you. If you have any suggestions or comments regarding this publication please contact us at <a href="mailto:hjnandco@hjnandco.com">hjnandco@hjnandco.com</a>. All rights reserved. May not be reproduced without prior consent from Hansen, Jergenson, Nergaard &amp; Co.</p>
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