

Mierendorf Monitor

West Michigan Tax News and Tips for April 2012

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Tax Scam Warning: Phony Refund Scheme Targets Senior Citizens and Others

This tax season senior citizens and other taxpayers need to be aware of an emerging plot tempting them to file tax returns claiming fraudulent college credit refunds. The scheme carries a common idea of promising refunds to people who have little or no income and normally don't have a tax filing requirement. The method is as follows: scammers claim they can obtain for their victims, often senior citizens, a tax refund or

nonexistent stimulus payment based on the American Opportunity Tax Credit involving past college credits. These scam artists convince their intended targets they are eligible even if the taxpayer was not enrolled in or paying for college in 2011. These con artists falsely claim that refunds are available even if the victim went to school decades ago.

The scheme can be quite costly for victims. These

swindlers may charge exorbitant upfront fees to file these claims and are often long gone when victims discover they've been cheated.

Mierendorf & Co would like to remind our clients and friends to double check their elderly family members and caution them against these despicable acts.

If you have questions or concerns about this bogus scheme give us a call. 616-784-4445 or email cpas@miercpa.com

Mierendorf News & Tips

Who Pays the Gift Tax?

The person who makes the gift is the one who is responsible for paying any gift tax that may be due and reporting the gift to the IRS on a gift tax return - IRS Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return. The gift tax return and any gift tax that may be owed are due on or before April 15 of the year following the year in which the taxable gift was made.

What are my options if I cannot afford to pay my taxes?

- You can pay the IRS late. The monthly late fee is 1% of the balance due, \$10 on a \$1,000 tax balance.

- You can set up a payment plan with the IRS for a one-time fee of up to \$105 plus monthly interest.

- Or, you can pay by credit card.

If you use your credit card, then you are subject to the terms and conditions of your credit card agreement. Before you use credit to foot your tax bill, make sure you understand the advantages and disadvantages of paying your taxes this way. If you have any concerns on this topic, then please feel free to contact us.

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2012 Tax Planning: Pension Withholding Guidelines

Effective January 1, 2012, Michigan's tax treatment of pension and retirement benefits will change and these benefits will be subject to income tax for many recipients. Michigan law now requires the administrators of pension and retirement benefits to withhold income tax on payments that will be subject to tax.

What are Pension and Retirement Benefits?

Under Michigan law, qualifying pension and retirement benefits include most payments that are reported on a 1099-R for federal tax purposes. This includes defined benefit pensions, IRA distributions, and most payments from defined contribution plans. Payments received before the recipient could retire under the provisions of the plan or benefits from 401(k), 457, or 403(b) plans attributable to employee contributions alone are not pension and retirement benefits under Michigan law. For additional information on pension and retirement benefits, give us a call today.

Which Benefits are Taxable?

Beginning in 2012, pension and retirement benefits will be taxed differently depending on the age of the recipient. For couples, age is determined using the age of the older spouse. Military pensions, Social Security benefits and railroad retirement benefits continue to be exempt from tax.

No tax exemption applies to premature distributions or payments from 457 plans, 401(k) plans, 403(b) plans or any other elective deferral plans if only the employee made contributions to the plan and is fully taxable regardless of the age of the recipient. For recipients born before 1946, the law remains the same as it was prior to 2012. Those born before 1946 may subtract all qualifying pension and retirement benefits received from public sources, and may subtract private pension and retirement benefits up to \$47,309 if single or married filing separate, or \$94,618 if married filing a joint return. Withholding will only be necessary on taxable pension payments (private pension payments) that exceed the pension limits stated above for recipients born before 1946.

Recipients born between 1946 and 1952 will be able to deduct \$20,000 in pension and retirement benefits if single or married filing separate or \$40,000 if married filing a joint return. Withholding is required unless the recipient submits an MI W-4P. The pension tax withholding tables included in this booklet incorporate the deductions of \$20,000 for single or married filing separate, and \$40,000 married filing a joint return, assuming benefits are paid monthly. If benefits are paid other than monthly, withholding is only due on the amount that exceeds the recipients' deduction amount. Recipients who indicate on the MI W-4P they are married (withhold as single) should have withholding computed as if they are single. For recipients born after 1952, all pension and retirement benefits are taxable. Use the monthly withholding table from the Michigan Income Tax Withholding Guide (Form 446) to calculate the appropriate withholding based on the number of personal exemptions claimed on the MI W-4P.

"Beginning in 2012, pension and retirement benefits will be taxed differently depending on the age of the recipient"



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New Requirements for Issuing 1099's

Small Businesses

If your business paid \$600 or more during the tax year to an individual or another company for services, then you are required to issue a 1099. Professional fees to an attorney, doctor or other professional are included. Payments to corporations are included only if they are for medical, health care, or legal matters.

Schedule C Properties and Rental Activities

Landlords receiving rental income need to issue 1099s for all individuals and businesses (except for corporations) that provided \$600 or more in services to the landlord during any one calendar year. For example, a major heating company can repair a heating unit in excess of \$600, but sub-contractor "Joe" cannot.

Determining Whether the Individuals Providing Services are Employees or Independent Contractors

In determining whether the person providing service is an employee or an independent contractor, all information that provides evidence of the degree of control and independence must be considered.

Common Law Rules

Facts that provide evidence of the degree of control and independence fall into three categories:

Behavioral: Does the company control or have the right to control what the worker does and how the worker does his or her job?

Financial: Are the business aspects of the worker's job controlled by the payer? These include things like how worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.

Type of Relationship: Are there written contracts or employee type benefits like pension plans, insurances, and vacation pay? Will the relationship continue and is the work performed a key aspect of the business?

Businesses must weigh all these factors when determining whether a worker is an employee or independent contractor. Some factors may indicate that the worker is an employee, while other factors indicate that the worker is an independent contractor. There is no "magic" or set number of factors that "makes" the worker an employee or an independent contractor, and no one factor stands alone in making this determination. Also, factors which are relevant in one situation may not be relevant in another. The keys are to look at the entire relationship, consider the degree or extent of the right to direct and control, and finally, to document each of the factors used in coming up with the determination.

If you have any questions about the status of your workers, or to find out what situation would suit your business best, feel free to contact us today.