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DELOITTE'S TAKE ON EMPLOYMENT TAX

Have you considered a strategic employment tax review?

With US employment tax governed by federal, state, and local laws, complying with the various tax reporting and withholding rules in a single jurisdiction can be challenging. Considering the way today's employers expand operations into more and more jurisdictions through internal growth and acquisitions, managing compliance and reducing employment tax related costs has become more and more burdensome—and critical.

Many organizations manage their corporate income tax rate and compliance very effectively, but employment taxes often get overlooked. Given the IRS recently notified Congress of its plan to increase employment tax compliance checks across the country, it's critical that organizations focus more acutely on their employment tax compliance.

Did you know? Employment taxes withheld by employers account for nearly 72 percent of all revenue collected by the IRS. (IRS Pub. 5084, Rev. 8-2019)

A strategic employment tax review (SETR) can help companies assess their existing employment tax processes, identify tax compliance gaps and risks, and develop an action plan for future compliance. At the same time, an SETR can also be useful in identifying possible refund opportunities or tax savings.

Imagine receiving an information document request from an auditor seeking details relating to any of the following:

- Timing of tax deposits on deferred compensation awards
- Tax withholding records for business travelers performing services in other states
- Employee handbook, to see if all benefits (meals, travel, etc.) are properly included in taxable wages
- Forms 1099-Misc, to see if recipients are properly classified as employees

Would you be confident that you are compliant in these complex areas of employment tax?

Through a strategic employment tax review, you may be able to increase your level of confidence and reduce the risks associated with audits and noncompliance.

In our experience, an SETR can be especially beneficial to companies which:

- Have increased employee head count through M&A activity in the past three years
- Have restructured employing entities
- Have prospective acquisitions that include employees
- Have significant state employment tax compliance notices
- Are paying SUI taxes at highest rates
- Are unsure of current level of employment tax compliance

Reviewing your approach to employment tax not only increases your chances of staying compliant with IRS guidelines, but can also identify potential benefits of which you may have been previously unaware. These include:

Refund opportunities

With a corresponding transfer of assets, property, etc. related to the movement of employees, the receiving entity will normally qualify as a successor employer and will not have to restart the FICA, FUTA, and state unemployment insurance taxable wage base limits. Many employers are not aware of this opportunity, or they may have systems or other limitations that do not allow them to carry forward the year-to-date wage and tax accumulators. This duplication of employment taxes can trigger a potential refund opportunity. In addition, employers may not be aware of the options and requirements for the transfer of state unemployment insurance (SUI) tax rating factors. They may have received the incorrect SUI tax rate and have the potential opportunity to receive a lower tax rate or potential refund of overpaid SUI taxes.

Reductions

In certain states, employers can take steps to potentially reduce SUI tax cost through annual elective options, such as voluntary contributions, joint accounts, negative balance write-offs, or nonprofit funding alternatives. It is also important to review the factors used in determining the annual tax rate, as state and employer errors can contribute to the incorrect tax rate being assigned, and there is limited time to appeal the annual tax rate. For employers that have received penalty, interest, late filing, and other delinquency notices, there may be a potential opportunity to reduce or fully abate amounts that are being requested by the employment tax agency.

Planning considerations

Transactions and restructuring involving employees' movement can present a potential opportunity to reduce employment taxes while complying with reporting obligations. This can be done by analyzing the transfer of SUI tax rate experience, proactively analyzing the successor position to avoid duplicate taxation, and identifying the necessary compliance filings.

Whether you're motivated by the prospect of a potential IRS audit or potential tax savings opportunities, it might be time for your company to analyze and potentially improve its employment tax position.

Contacts

Eira Jones
Client Service Executive
Deloitte Tax LLP
+1 415 783 7638
eijones@deloitte.com

Sean Trotman
Principal
Deloitte Tax LLP
+1 212 436 2211
strotman@deloitte.com