

**** Georgia Department of Labor Warning ****

Issuing 1099s instead of W2s

We have been warned that the Georgia Department of Labor has been mandated to audit everyone in the next three years. Many of our clients have already been audited, so it isn't IF you will be audited, it is WHEN you will be audited. In the past, we would send them payroll records and copies of the quarterlies and the auditors were satisfied. Not anymore!

The auditors are required to read your manual check stubs or computer check registers. They are looking for any individual's name that is not on your payroll. They will also request copies of your 1099s. Now, more than ever, it is imperative that you not pay anyone "straight" wages without taking our Social Security taxes and issuing them a W2.

Also, many clients are under the impression that if they pay someone under \$600 during the year, they are relieved from adding this person to the payroll. This may be true for the IRS, but not the DOL. Their rules state that "Workers hired for casual labor *not in the usual course of business*, are exempt unless paid \$50 or more in any calendar quarter." Paying wages independent of the payroll system is a common practice for companies with high turn over. The thought is that the first few days is some sort of probation period. But there is NO "probation" or temporary period where you are allowed to not take out taxes if they are deemed an employee.

If you issue a check to any individual or LLC, obtain a signed Form W-9 before releasing the check. Do not assume that you will not reach \$600. By then it may be too late to obtain a W-9. Make it your company policy not to issue any checks without a W9 on file. In QuickBooks, mark the vendor and "eligible for 1099" even if you are convinced that they will not reach the IRS \$600 threshold.

NEW IRS FORM 8919:

The Internal Revenue is also getting serious about employers paying vendors with a 1099 when they should deduct taxes and issue a W2. They have just released a new Form 8919, *Uncollected Social Security and Medicare Tax on Wages*. This form can be used by anyone who feels that they are not self employed and are not required to pay both shares of the FICA. The 1099-Misc instructions, which are printed on the back of the 1099, state that if the recipient believes that they received the 1099 in error and taxes should have been withheld, then they should file the new Form 8919. The IRS will then contact the employer and request additional taxes along with penalties and interest.

Change your DOL rate in the computer BEFORE you prepare the first payroll of the new year. Please fax us your notice to 898-0302

If you do not receive your notice, call the local Dept. of Labor office at 356-2784, or the Atlanta rate unit 404-232-3300. They should help you.

The Total Tax Rate is a combined rate of:

Box k. Contribution Rate

Line 6, Administrative Assessment Rate (usually .08)

In QuickBooks, go to LISTS>PAYROLL ITEM LIST

Find the GA-Unemployment item code and change the Contribution Rate.

The Assessment code should already be .08 or Zero, if you are a non-profit.