

December 2012

To all clients...

California businesses are required by Federal law to report all new employees and certain independent contractors to the EDD within 20 days of hiring or entering a contract. The EDD may assess a \$24 penalty for each failure to report either a new employee or independent contractor. If the employer and employee conspire to omit filing the required information or issue a false or incomplete report, the EDD may assess a penalty of \$490. Following is a review of the requirements for each.

### **Employees**

All employers must report the hiring or rehiring of all workers within 20 days of hire on Form DE-34 to the EDD. This includes all shareholders, full-time, part-time or seasonal workers, living in or out of California, even if employment is discontinued prior to the 20 days. A copy of the employee's Form W-4 can also be filed instead. However if you use the employee's Form W-4, you must write the date of hire and the employer's state ID number on the copy of the Form W-4.

The DE-34 can be faxed to 916-319-4400, filed on-line at

[http://www.edd.ca.gov/Payroll\\_Taxes/FAQ\\_-\\_Reporting\\_New\\_Employees\\_Online.htm](http://www.edd.ca.gov/Payroll_Taxes/FAQ_-_Reporting_New_Employees_Online.htm)

or mailed to: Employment Development Department, PO Box 997016, Document Management Group, MIC 96, West Sacramento, CA 95799-7016. For further information, you can call our office or the EDD at 800-796-3524.

### **Independent Contractors**

All businesses must report individual independent contractors qualifying for a 1099 within 20 days of making a payment or entering a contract for \$600 or more within a calendar year on Form DE-542. The independent contractors must be reported annually. So if the business reported an independent contractor in 2011, the contractor must be reported again in 2012 if the requirements are met for that year.

While there is a penalty for failing to report an independent contractor, there is no penalty for reporting a worker who is not an independent contractor. As a suggestion, after preparing your Form 1099's for 2011, enter all of the names on Form DE-542 and file it. Then as you hire new independent contractors throughout the year, you can report them at that time.

If the independent contractor refuses to provide you with a Social Security number, enter 000-00-0000 on Form DE-542. Do not use the federal or state tax ID number. If you do not know when the independent contractor will reach the \$600 threshold, then check the "ongoing" box on the form. If you report an independent contractor on Form 1099-MISC, you must also report the contractor on Form DE-542. *Please note that if an independent contractor is a corporation, partnership, limited liability company or a limited liability partnership, you are not required to report them on Form DE-542.*

The DE-542 can be faxed to 916-319-4410, filed on-line at

[http://www.edd.ca.gov/Payroll\\_Taxes/FAQ\\_-\\_Reporting\\_Independent\\_Contractors\\_Online.htm](http://www.edd.ca.gov/Payroll_Taxes/FAQ_-_Reporting_Independent_Contractors_Online.htm)

or mailed to: Employment Development Department, PO Box 997350, Document Management Group, MIC 96, Sacramento, CA 95899-7350. For further information, you can call our office or the EDD at 888-745-3886.

Thank you,

*Pomerantz, Kavinoky & Company*