ON THE HRISON

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Dear Valued Clients and Business Partners,

We hope that this newsletter finds you well as we have officially ushered in year 2012. Around this time of year most organizations are reviewing and finalizing budgets, plans, and strategies for their 2012 operations. This is also a good time to review with staff the upcoming Company goals and develop a plan for how your staff will be a critical part to achieving those goals.

Additionally, this year comes with it new compliance requirements by federal and state agencies. Please read below for most recent updates for the new year you should be aware of.

Please feel free to visit the website and submit any feedback, questions, or concerns you may have.

In This Issue

IRS Standard Mileage Rate for 2012

The IRS has issued the 2012 optional standard mileage rates. The standard mileage rate for business miles driven will remain at 55.5 cents per mile.

Beginning on January 1, 2012, the standard mileage rates for the use of a car (also vans, pickups or panel trucks) will be:

- 55.5 cents per mile for business miles driven
- 23 cents per mile driven for medical or moving purposes
- 14 cents per mile driven in service of charitable organizations

There was only one adjustment from the 2011 mid-year rate, the medical and moving rate, which decreased by .5 cents.

The optional business standard mileage rate is used to compute the deductible costs of operating an automobile for business use in lieu of tracking actual costs. This rate is also used as a benchmark by the federal government and many businesses to reimburse their employees for mileage.

Employers that use the IRS standard mileage rate to reimburse employees may deduct the reimbursement as a business expense. If employers use the approved rate (or a lower rate), the IRS considers that requirements to substantiate and adequately account for the expense are satisfied

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without extensive documentation of actual expenses.

Notice 2012-01 contains additional information on the 2012 standard mileage rates.

National Labor Relations Board Poster Compliance Deadline Delayed Again

The National Labor Relations Board (NLRB) is again delaying implementation of its rule requiring most employers to display a poster explaining employee rights under the National Labor Relations Act. The delay comes at the request of the federal court in Washington, D.C., that is hearing a legal challenge regarding the rule. The new implementation date is ***April 30, 2012***. A December 23 statement from the NLRB says it "has determined that postponing the effective date of the rule would facilitate the resolution of the legal challenges that have been filed with respect to the rule." This is the second time implementation of the rule has been delayed. Originally, it was to take effect November 14, 2011, but the effective date was later set for January 31, 2012, after legal challenges were filed.

If successfully implemented effective ***April 30, 2012***, most private sector employers will be required to post a notice advising staff of their rights under the National Labor Relations Act. The notice should be posted in a conspicuous place, where other notifications of workplace rights and employer rules and policies are posted. Employers also should publish a link to the notice on an internal or external website if other personnel policies or workplace notices are posted there. If 20 percent of staff members speak a language other than English, the notice must be posted in that language, as well as in English. The National Labor Relations Board (NLRB) will publish the notice in languages other than English.

The NLRA applies to all employers engaged in interstate commerce that meet the following criteria:

- Retail concerns that have a $500,000 gross volume year
- Public utilities with a gross volume of $250,000 per year
- Nonretail business with a gross volume of $50,000 per year

The Act covers all staff except for agricultural laborers, domestic servants, individuals employed by a parent or spouse, independent contractors, supervisors, individuals employed by an employer subject to the Railway Labor Act, and government staff.

The NLRA protects concerted activities undertaken in a group (i.e., more than one staff member or one staff member acting on behalf of a group) with respect to terms and conditions of employment, whether or not in a formal union context. This means that the NLRA applies to employers regardless of whether their workers are unionized or not.

The NLRA also defines certain practices by staff and employers as unfair labor practices in order to protect the rights of employers and staff members and to prevent labor disputes.

Penalties

Failure to post the notice can result in the extension of the 6-month statute of limitations for filing an unfair labor practice charge against the employer. In cases of a willful failure to post the notice, the failure may be considered evidence of unlawful motive in an unfair labor practice case involving other alleged violations of the NLRA.

You may obtain a copy of the required poster by clicking here.

New York State Wage Theft Prevention Act: Annual Wage Notices Due

New York's landmark Wage Theft Prevention Act requires employers to issue to all New York staff members with an annual notice complying with the requirements of **New York Labor Law §195** (as amended by the act). The statute became effective in April 2011, and the first annual notice must be provided prior to Feb. 1, 2012, a notice must be provided even if the information contained in a prior notice has not changed.

While the law does not dictate the form of notice, the New York State Department of Labor (NYSDOL) has provided sample forms. In addition to English, the NYSDOL has provided sample forms in other languages, consistent with the requirement that the notice be provided in English and in the staff member's "primary language." Current languages available are Spanish, Chinese, Korean, Haitian/Creole, Polish and Russian. Employers must retain copies of the notice for six years. Notices can be provided electronically as long as the staff is able to acknowledge receipt of the notice and print a copy.

Failure to provide the annual notice constitutes a violation of the Wage Theft Prevention Act (Section 198(1-b)) and can carry a penalty of "fifty dollars for each work week that the violations occurred or continue to occur," among other potential remedies.

For further information and copies of the form notices you may visit NYDOL website.

California Wage Theft Prevention Act of 2011 Takes Effect

California's Wage Theft Prevention Act of 2011 will require companies to provide certain new hires with a written wage disclosure beginning January 1, 2012. The following is an overview of Here is an overview of the disclosure requirement.

New Hire Disclosure

The Act adds new **Labor Code section 2810.5** to require employers to provide onboarding ***nonexempt staff*** with a written disclosure at the time of hire. The notice requirements do not apply to staff who are exempt from overtime, public staff, or staff covered by a valid collective bargaining agreement that provides premium rates for overtime and a regular pay rate of at least 30 percent more than the state minimum wage.

The new hire notice must contain all of the following information, in the language the organization regularly uses to communicate with staff:

- The employee's rate or rates of pay and basis thereof, whether the employee will be paid by the hour, shift, day, week, salary, piece, commission, or otherwise;
- The rates for overtime;
- Allowances, if any, that the employer claims as part of the minimum wage, including meal or lodging allowances;
- The regular payday;
- The employer's name and any "doing business as" names used by the employer;
- The physical address of the employer's main office or principal place of business, and a mailing

address, if different;
- The employer's telephone number;
- The name, address, and telephone number of the employer's workers' compensation insurance carrier; and
- Any other information the Labor Commissioner requires employers to include.

In addition, because the new law's disclosure requirement is ongoing, it will effectively apply to all employees if an employer changes any of the items that it must disclose to new hires. In particular, once changes occur, the employer has seven calendar days to notify employees of the changes or to include the new information on the employees' wage statements.

To ensure compliance organizations should:

1. consider having new hires sign and date an acknowledgment that they received the disclosure; and
2. retain copies of all disclosures and signed acknowledgments.

The Labor Commissioner is preparing a notice template for employers to use, as well as FAQs on the new law available on their website.

Additional Information

This information is being provided to you as a courtesy. For specific information about how the information in this newsletter affects your business, please do not hesitate to contact us at:

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