

Client Bulletin



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“Red Flag Rule” - Clarification Act Signed by President; Enforcement to Begin January 1, 2011

On December 10, 2010, only three weeks before the end of the Federal Trade Commission (“FTC”) moratorium on enforcement of the “Red Flag Rule” regarding identity theft and use of consumer reports (credit reports), the President signed the Red Flag Clarification Act, which restricts the definition of “creditor” in § 702 of the Equal Credit Opportunity Act, thereby exempting a significant number of businesses that were formerly subject to the Red Flag Rule (and, hence, having to have and use a “Red Flag Program”). The FTC will begin enforcement on January 1, 2011.

A business that advances funds to or on behalf of a person (a customer or client of the business) based on that person’s obligation to repay the funds or which advance is repayable from specific property pledged by that person or on that person’s behalf is a creditor unless such advance of funds is simply incidental to a service provided by the business/creditor to that person (this will exempt most service providers such as attorneys, accountants, and medical practitioners).

Please contact us if you have a question as to whether your business is subject to the Red Flag Rule or, if you are, to develop the required Red Flag Program.

IRS Increases Mileage Deduction by a Penny

The IRS issued the 2011 optional standard mileage rates used to calculate the deductible costs of operating a vehicle for business, charitable, medical or moving purposes. The amount for business gets a penny-per-mile increase, to 51 cents for business miles driven.

The amount for medical and moving increases to 19 cents, from 16.5, and the amount for service of charitable organizations remains the same, at 14 cents.

Minimum Wage Change Effective January 1, 2011

Effective January 1, 2011, Ohio’s minimum wage for non-tipped employees increases to \$7.40 an hour. However, for employers with gross revenue of less than \$271,000 per year, the applicable minimum wage is the current federal minimum wage of \$7.25 per hour. Additionally, employees under the age of 16 can be paid less than \$7.40 an hour, provided they are paid equal to or more than \$7.25 an hour (the federal minimum wage). Ohio’s minimum wage for tipped employees becomes \$3.70 an hour (plus tips).

Appropriate notice of the new Ohio minimum wage needs to be posted in a conspicuous place. Please let us know if you need a copy of the Ohio Department of Commerce’s notice (REV 09/30/10) and we will mail or e-mail a copy to you.

Rental Property Landlords Face New IRS Reporting Requirement

The Small Business Jobs Act requires taxpayers who receive rental income to issue 1099 forms to service providers to whom the taxpayer makes payments totaling \$600 or more for the tax year for services provided with respect to the rental property. Form 1099s do not have to be issued to those who provide goods.

If you have rental property, beginning January 1, 2011, you will need to keep records of payments to service providers to that you can issue the service provider (and the IRS) a 1099 form if total payments for the year are \$600 or more. If you do not have the service provider's Social Security Number ("SSN") or Taxpayer Identification Number ("TIN"), you will need to send the service provider an IRS Form W-9 to request the service provider's SSN or TIN.

January 1, 2011 Changes to Flexible Spending Accounts Regarding Non-Prescription Drugs May Require Changes to the Plan and the Summary Plan Description

In a previous edition, we outlined the changes to Flexible Spending Account (FSA) regulations which effectively eliminated, beginning January 1, 2011, the ability to use FSA funds for most non-prescription drugs and medical equipment. An employer's Plan and Summary Plan Description (SPD) both need to be amended if the Plan has permitted FSA funds to be used for non-prescription drugs and medical equipment. Please contact us if you need assistance in amending your Plan, SPD, and/or related documents.

Bill Michael Becoming General Counsel of Law Firm Client Suburban Natural Gas Company

Effective January 1, 2011, Bill Michael will become General Counsel of long-time law firm client Suburban Natural Gas Company. Headquartered in Lewis Center, Ohio, with another office in northwestern Ohio, Suburban Natural Gas is a regulated public utility that distributes natural gas to some 16,000 customers in central and northwestern Ohio. The law firm will continue providing legal services to Suburban Natural Gas and looks forward to working with Bill in doing so.

Notice

This bulletin provides general information and is not legal advice. Please contact us if you need legal advice.

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