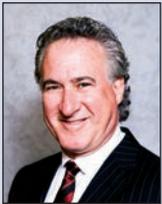


Dear Clients and Friends,



The content of this column has changed many times during the month we spent writing this issue. One day I was referencing a plummeting market and falling oil prices; the next day I was reading about concerns that our economy could fall into recession this year. And today, CNN is reporting the markets are showing signs of recovery. By the time you read this column, the mood may have shifted yet again.

So I'm not going to recap what the stock and job markets are doing, talk about inflation or whether or not the Fed will raise rates again this year. The bottom line is we are entering a time of transition on many fronts; after all, it is an election year!

Today I want to focus on some good news that reflects longevity, growth, teamwork, promise, and resilience. Meisel, Tuteur & Lewis is celebrating its 70th anniversary this year – a milestone we are all very proud of. I have been fortunate enough to be part of this legacy for 38 of those years and know that we share similar milestones with some of our dear clients, who have also persevered and grown through decades of change. We want to take this opportunity to say THANK YOU – to every client, colleague and team member who has contributed to our success.

While it is impossible to forecast all of the changes that will occur this year and in the future, you can count on us to guide you through all of your financial challenges and help you achieve your business and personal financial goals.

Very truly yours,

Michael S. Lewis, CPA
Managing Partner

70 YEARS

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The Employee vs. Independent Contractor Issue

Anthony Pentz, CPA, MST

The issue of whether a worker is an employee or self-employed independent contractor is one that never seems to go away. Mistakenly classifying an employee as an independent contractor can result in significant fines and penalties. Therefore, it's critical that business owners understand how to classify individuals who are providing services to their business.

So, what's the difference?

Proper classification of a worker as an independent contractor can save a company both money and benefits. In most cases, one simply needs to complete a Form 1099-MISC at the end of the year, representing the total dollar amount paid to the independent contractor. The burden of making the appropriate tax payments is on the independent contractor.

Classifying workers as employees, on the other hand, require the company withhold income taxes (federal, state and local); pay half of the tax mandated under the Federal Insurance Contributions Act (FICA); pay the full tax required under the Federal Unemployment Tax Act (FUTA) plus



any state unemployment insurance tax laws; pay for workers' compensation insurance; file a number of returns during the course of the year with various tax authorities; and provide W-2s to employees in a timely fashion. In addition, employees may have rights to employee benefits offered, including health insurance, retirement plans, and paid time off.

Financially, it might appear to make more sense for a business owner to classify everybody as independent contractors. But one must consider the relationship between the worker and the business to ensure proper classification.

In the past, the IRS used a list of 20 factors to help their agents and the courts determine worker status. You can find an example of this *20-Point Checklist for Determining an Independent Contractor* on the home page of our website. While this list is still used as

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Know Your Reporting Requirements for Foreign Financial Assets

Franco Fallone, CPA, MST

Do you now or have you recently held a financial interest in specified foreign financial assets? If so, you may be required to file certain disclosure forms with the IRS.

Specified foreign financial assets include: financial accounts maintained by foreign financial institutions, stock or securities issued by non-U.S. persons, financial instruments or contracts held for investment with issuers or counterparties that are non-U.S. persons, and any interest in a foreign entity.

The required disclosures are made on Form 8938, which is included as part of the taxpayer's Federal income tax return. An individual living in the United States must file Form 8938 if the aggregate fair market value of the specified foreign assets exceeds \$50,000 on the last day of the year or \$75,000 at any time during the year (\$100,000 and \$150,000 respectively for married taxpayers filing jointly). The thresholds are higher for taxpayers living abroad. Those limits are a fair market value of \$200,000 at the end of the year or \$300,000 at any time during the year for single taxpayers (\$400,000 and \$600,000 for married taxpayers



filing jointly). Specified foreign financial assets that are held in disregarded entities must be included in the calculation to determine if the filing threshold has been met and the value of the investments reported on Form 8938.

In addition to Form 8938, a taxpayer who has a financial interest or signature authority in a foreign financial account whose aggregate value exceeds \$10,000 at any point during the year is required to file FinCEN Form 114 to disclose the assets. Form 114 is not filed with the IRS. It is a separate form that is due on June 30 of the year following the tax year and is required even if the information was already included on Form 8938.

The requirements for reporting foreign assets are complex and the penalties for non-compliance are significant. If you have any foreign assets, we encourage you to discuss them with your MT&L advisor to ensure the proper filings are made. ■

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The Employee vs. Independent Contractor Issue

an analytical tool, it is not as relevant as it once was. Agents and courts now focus on the overall situation, and evaluate three main categories: behavioral control, financial control, and the parties' relationship to each other.

Behavioral Control. Factors include, but are not limited to: *Can the company control where, when or how the worker performs their duties? Is standardized training provided to the worker or are they permitted to use their own methods? Does the worker receive an evaluation of their performance, or is the end result the only thing that is measured?*

Financial Control. Factors include, but are not limited to: *Is the worker reimbursed for all business expenses? Who pays for necessary equipment and supplies? Can the worker incur a loss related to the services performed?*

Type of Relationship. Factors include, but are not limited to: *Does the company provide the worker with employee-type benefits (i.e., insurance, retirement plan, or paid time off)? Are there written contracts and/or job descriptions, describing how the parties will work together?*

While all of these factors (and more) must be weighed when determining a worker's classification, it should be noted that not all factors need to be present and no single factor is a sole determinant.

There are repercussions for misclassifying an employee as an independent contractor if there is no reasonable basis for doing so. Business owners could be held liable for all back taxes, plus face criminal and civil penalties if the IRS can prove the misclassification was intentional.

One of the factors the IRS uses to determine whether a business intentionally or unintentionally misclassified a worker is 'consistency.' Therefore, it is highly recommended

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When one door of happiness closes, another opens, but often we look so long at the closed door that we do not see the one that has been opened for us.

- Helen Keller

Technology And Your Business: Embrace Change

Allister Rodriguez

Technology is shrinking the world by making people, places, and ideas once considered remote easily accessible with almost instant communication. It is obvious the digital age has arrived and businesses that are technologically advanced are generally more successful. In fact, businesses of all sizes are embracing technology as a critical business element to boost productivity levels, market more effectively on different platforms, and remain competitive.

Where does your business stand? Are you welcoming the digital age or sitting on the sidelines? Take a moment to reflect on what technology can do for your business.

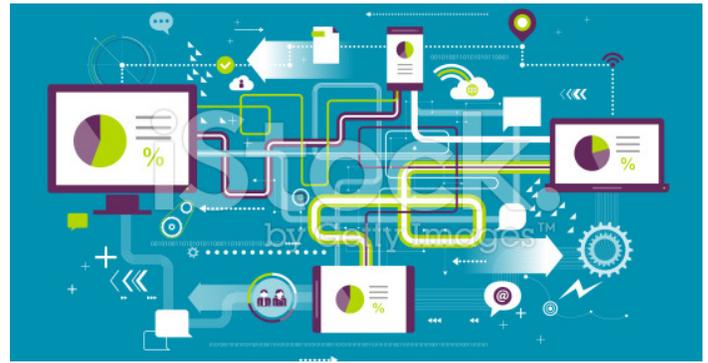
Communicate Effectively

New and evolving communication methods have reduced lag time for operations. For instance, smartphones make accessing and responding to email easy and efficient. You can stay in touch with vendors, clients, and other contacts anytime and from anywhere. Many are even taking communications a step further by incorporating video-conferencing into their organization. Virtual meetings are a cost-effective way to “meet” with key individuals all over the world, virtually eliminating the need to take time consuming and costly business trips. Many free or low-cost platforms like Skype brought these capabilities to the masses and offer free trials so you can give it a try.

Be Productive

Increase productivity by streamlining your business. Some examples are as follows:

- Pinpoint bottlenecks and inefficient processes by using time tracking software.
- Redesign processes and speed up the supply chain with project management software that also allows you to track your progress on a dashboard.
- Manage appointments and plan meetings through the use of scheduling programs. Some software can interface with websites to give clients the ability to schedule their own appointments online at their convenience.
- Develop an organized approach to handling customer issues by offering online help desks or ticketing systems.
- Request and track customer feedback by utilizing free online questionnaires and surveys.
- Save money, time and space by going paperless. By scanning your old files and keeping digital copies on a secure cloud application, you ensure they can be accessed on demand by multiple users, are always backed up and safe from physical damage, and are easy to share. Most software packages also include mobile platforms (also known as “apps”) for the entrepreneur on-the-go.



Stay Competitive

Embrace technology to stay ahead of your competitors. Here are some examples on how to do this:

- Make it convenient for your customers to do business with you by giving them the option to buy, schedule appointments, and provide feedback online.
- Communicate through social media for a different approach to marketing. Social media is an organic and soft approach that customers can relate to. It makes it easy for them to stay in touch with you, share your contact information, and provide testimonials.

You can also utilize a variety of online marketing tools to effectively get your name in front of potential customers. For example:

- List your business on some of the larger “review” websites like *YAHOO! Local*, *Yelp*, and *Google Places* to give satisfied customers a place to leave positive feedback and potential customers a way to decide if you’re credible.
- If you want your customers to stop by, gain more exposure by encouraging the use of *Foursquare*, a check-in app that links with social media to broadcast people’s location to their contacts.
- Invest in Search Engine Optimization services to ensure your business is appearing on the first page of search engines for specific keywords that are important to your business model.
- Consider investing in Google AdWords for a quick burst of name recognition. Google AdWords is essentially online advertising that appears every time a user searches for something.
- Utilize Google Analytics, a free service that shows you how much traffic you are getting to your website, where it is coming from, and which pages are most popular, among other things. This data can be incredibly valuable when trying to decide how to leverage your time and money across different marketing channels.

Technology clearly offers a way to leverage limited resources more effectively and stay ahead of the curve. Any one of these ideas can have a positive effect on how you do business. Of course, every business model and budget is different, so tailor your approach to your industry and circumstances. Start today and you’re bound to see a difference in the new year. ■

An Inside Look

Employee News

MT&L is pleased to welcome **Austin DeCotiis** to our professional staff. He recently graduated Montclair State University.

Congratulations to **Vic Saysay** for all his hard work in helping to organize a charity autograph session with former NHL star, Bernie Nicholls, in support of the Nicholas Wihlborg Foundation. The event raised \$2,000. The Foundation is dedicated to fighting childhood cancer, while supporting kids and their families who are impacted by this disease.

Firm News

A sincere thank you to everyone who donated to **MT&L's 2015 Toy Drive**, benefitting The Bristol-Myers Squibb Children's Hospital. We were able to donate more than 200 items, helping to make the holidays a little brighter for all of the children at the hospital.



MT&L is proud to celebrate its 70th anniversary. We wish to thank all of our clients, business partners and employees for their support through the years. We are who we are because of each one of you. ■

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The Employee vs. Independent Contractor Issue

that a company be consistent in how they classify and pay workers who are doing similar tasks, for example, and to file appropriate tax forms as required in each instance.

For employers who wish to proactively reclassify employees to meet the IRS requirements, there is a program available to help resolve cases as quickly as possible. The Voluntary Classification Settlement Program (VCSP) allows companies to reclassify their workers as employees for future tax periods

while receiving reduced assessments in exchange for their cooperation. To be eligible for the VCSP, employers must meet certain eligibility requirements and apply by filing Form 8952, *Application for Voluntary Classification Settlement Program*.

If you are uncertain about how to classify any of your workers, contact your MT&L advisor for guidance. ■

Congratulations! You've Won...A Tax Bill!

Scott Awerman

January's Powerball lottery drawing amassed a great deal of attention; rightfully so, clocking in at a world record jackpot of \$1,586,400,000. I imagine many of you, as I did, purchased a ticket in hopes of hitting the long shot and winning big. Immediately after purchasing my tickets, I found myself allocating portions of my potential winnings in my head: to whom would I gift a portion? How much would I invest in the markets? In which countries would I purchase a new vacation home? And most importantly, how would I strong-arm the Steinbrenners out of management once I purchased a sizeable share of the Yankees? It's funny that during my daydreaming, not a single penny of my newfound, albeit imaginary, fortune was allocated to Uncle Sam.

I wouldn't recommend putting too many of your eggs in the Powerball basket to achieve your champagne wishes and caviar dreams. More modest winnings, however, are far more likely attainable to the gambling crowd. And if you're fortunate enough to cash in on a game of chance, you need to be aware of the tax implications. That's right—whether it be a lottery drawing, scratch-off ticket, bingo, or casino winnings, gambling income is fully taxable and must be reported correctly on your income tax return. In fact, the IRS and individual states have issued precise rules on the reporting of gambling winnings.

Any legitimate gambling establishment, whether it be a casino, horse track, or bingo hall, must report winnings in excess of specified amounts. The gambling institutions may also be required to withhold income tax if your winnings are over a certain threshold. For example, Keno winnings of more than \$1,500; bingo or slot machine winnings of more than \$1,200; and horse racing or casino game

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PERSPECTIVES

Tax Changes for 2016

William Schwarz, CPA, MST

As a result of various legislation and other administrative pronouncements recently being enacted by the Internal Revenue Service (IRS), a large number of important tax changes go into effect this year. Below is a summary of the changes relevant to most taxpayers.

The recent legislation responsible for most of the new rules for 2016 is as follows:

- The Protecting Americans from Tax Hikes (PATH) Act of 2015;
- The Fixing America's Surface Transportation (FAST) Act;
- The Bipartisan Budget Act of 2015;
- The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015;
- The Trade Preference Extension Act of 2015; and
- The Achieving a Better Life Experience Act of 2014 (ABLE Act), part of the Tax Increase Prevention Act of 2014.

Enhancements for Section 179 Expensing. Under the PATH Act, the \$500,000 expensing limitation and \$2 million investment ceiling amounts are retroactively extended and made permanent. Additionally, the PATH Act makes other changes, including the following enhancements that apply for future tax years (after 2015):

- Both the \$500,000 expensing limit and the \$2 million investment ceiling amounts are indexed for inflation.
- Expensing of qualified real property is made permanent without a carryover limitation; and the \$250,000 expensing limitation that applied to qualifying real property under prior law is eliminated.
- Air conditioning and heating units are newly eligible for expensing.

De minimis expensing safe harbor for taxpayers with no Applicable Financial Statement (AFS) rose to \$2,500.

Final tangible property IRS Regulations permit businesses to elect to expense their outlays for de minimis business expenses rather than capitalize and depreciate them. If the taxpayer is eligible for the de minimis safe harbor election and chooses it, an amount paid to acquire or produce any eligible unit of property (or any eligible material or supply) is deducted in the year paid or incurred. If the taxpayer treats the amount paid as an expense on its Applicable Financial Statement (AFS), the de minimis safe harbor amount is \$5,000. However, the



IRS has increased the de minimis safe harbor limitation for a taxpayer without an AFS from \$500 to \$2,500. This increase is effective for costs incurred during tax years beginning on or after January 1, 2016; but use of the new threshold won't be challenged in tax years prior to 2016.

Additional Building Improvements Eligible for Bonus Depreciation. The PATH Act has expanded the types of building improvement property that qualifies for bonus depreciation, as long as it was placed into service after December 31, 2015. Specifically, the PATH Act liberalizes the rules in three ways: (1) building improvements are eligible for bonus depreciation regardless of whether the improvements are on property subject to a lease; (2) the improvement need not be placed in service more than three years after the date the building was first placed in service; and (3) structural components of a building that benefit a common area are no longer excluded from the definition of qualified improvements.

Moratorium on Medical Device Excise Tax. Under the PATH Act, the 2.3% excise tax imposed on the sale of medical devices will not apply to sales during calendar years 2016 and 2017.

Businesses can Shift Payroll-Tax Liability to Certified Professional Employer Organizations (PEOs). When a business contracts with a professional employer organization (PEO) to administer its payroll functions, the business customer remains responsible for all withholding taxes with respect to its employees. Thus, even though the PEO pays the employees, the customer remains liable if the PEO fails to withhold or remit the taxes or otherwise comply with related reporting requirements.

Under the ABLE Act—for wages paid by a certified PEO for services performed by an employee on or after January 1, 2016—the IRS is authorized to certify qualifying PEOs, which would allow the PEO to become solely responsible for the customer's employment taxes. To be certified by the IRS, a PEO has to satisfy various requirements, including: reporting

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Tax Changes for 2016

obligations, posting a bond in case the PEO fails to satisfy its employment tax withholding and payment obligations, and submitting audited financial statements. This is intended to ensure the PEO properly remits wages and employment taxes. Qualifying PEOs also must pay a \$1,000 fee.

The IRS has announced that it will defer beginning the acceptance of applications for the PEO certification program until July 1, 2016.

Accelerated Due Date for W-2, 1099, etc.. Effective for returns and statements relating to calendar years after December 18, 2015 (e.g., filed in 2017 for calendar year 2016), the PATH Act requires forms W-2, W-3, and returns reporting non-employee compensation (e.g., Form 1099-MISC), to be filed on or before January 31 of the year following the calendar year to which such returns relate. Those returns are no longer eligible for the extended filing date for electronically filed returns.

Increased Penalties for Failure to File Correct Information Returns: A penalty applies to taxpayers who fail to file correct information returns (e.g., IRS Form 1099) with the IRS. There's also a separate, but parallel, penalty on taxpayers who fail to provide the payee with a correct copy of the information return filed with the IRS. The penalties are based on the duration of the delinquency and whether the delinquency was intentional; as well as being subject to maxima that depends on the size of the taxpayer.

Under the Trade Preference Extension Act of 2015, effective with respect to returns and statements required to be filed

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Congratulations! You've Won...A Tax Bill!

winnings of more than \$5,000 must all be reported to the government via Form W-2G, issued to you by the gambling establishment.

Your winnings may be subject to a flat 25% withholding rate if in excess of \$5,000 from any sweepstakes, wagering pool, lottery, or any other wager where the proceeds are at least 300 times the amount you've bet. It's important to note that the withholding requirement remains unchanged even if the proceeds are cash, property, or an annuity. If your winnings do not fall subject to upfront withholding, you may still need to make estimated tax payments independently to avoid underpayment interest and penalties. As burdensome



Tax Note Update: Identity Theft PIN Letters

Identity Protection Personal Identification Numbers (PINs) are issued to people who are victims of tax-related identity theft. The IRS has announced that taxpayers who have been issued PINs are receiving letters incorrectly indicating the PIN issued is to be used for filing the 2014 return. However, the IRS has confirmed that the number is valid, and should be used for the 2015 return.

after December 31, 2015, these information return related penalties are increased. For example, where an unintentional delinquency is corrected no more than 30 days after the return due date, the per-return penalty is increased from \$30 to \$50; and the maximum penalty for any calendar year (for a "small" taxpayer) is increased from \$75,000 to \$175,000.

Revised Due Date for FinCEN Report: FinCEN Form 114, *Report of Foreign Bank and Financial Accounts* (FBAR), is used to report a financial interest in or signature authority over a foreign financial account. The FBAR must be received by the Department of the Treasury on or before June 30 of the year immediately following the calendar year being reported. The June 30 filing date may not be extended.

The Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 directs the Treasury to modify the regulations to provide that the due date of the FBAR form will be April 15 with a maximum extension for a 6-month period ending on October 15, similar to that of a personal income tax return (Form 1040). ■

as the gambling tax sounds, the IRS does provide some relief as gambling losses can sometimes be deducted. If you itemize deductions, your gambling losses can be reported on your Schedule A as a miscellaneous deduction, not subject to the 2% AGI floor, but only to the extent of winnings. It's necessary to keep in mind that you must have precise records to support this deduction. You must be able to provide documentation of your losses in the form of receipts, statements, or losing tickets. Keeping clean records is essential if you plan to use your gambling losses to offset winnings from more fruitful gambling excursions.

Although the odds may not always be in your favor when it comes to gambling, you can rest assured that your team at Meisel, Tuteur & Lewis will be on your side to walk you through whatever tax circumstances may arise. ■