THE
SMALLBIZ BUILDER

PADGETT
THE SMALL BIZ PROS

December 2014 PADGETT BUSINESS SERVICES® Vol. 12, No. 12

THIS MONTH:

- What's New for 2015?
- The Affordable Care Act and Healthcare Reimbursement Plans
- Unreimbursed Business Expenses

What's New for 2015?

◊ Social Security wage base increases from $117,000 to $118,500

◊ The following retirement plan limits are increased effective January 1, 2015

- Catch-up contributions to a 401K or 408 for individuals 50 or over increases from $2,500 to $3,000. Catch-up contributions to employer plan other than a 401K, SIMPLE, or SIMPLE IRA for individuals 50 or over increases from $5,500 to $6,000.
- Defined Contribution Plan limit increases from $52,000 to $53,000
- Elective deferral limits for employees who participate in 401(k), 403(b), and most 457 increases from $17,500 to $18,000
- Annual compensation limit increases from $260,000 to $265,000
- Definition of a highly compensated employee increases from $115,000 to $120,000
- Employee compensation limit for Simplified Employee Pensions (SEPs) increase from $550 to $600
- Limit on contributions to SIMPLE accounts increases from $12,000 to $12,500

The Affordable Care Act and Healthcare Reimbursement Plans

It is important for small employers to evaluate their health reimbursement plans to ensure that they comply with the Affordable Care Act (ACA) requirements. Beginning January 1, 2014, the ACA implemented a number of market reforms that impose various requirements on group health plans. Surprisingly, these requirements not only apply to traditional group health plans but also to Employer Health Reimbursement Plans. The following long-time options are now illegal under the ACA.

◊ Standalone Section 105 medical reimbursement plans and Health Reimbursement Arrangements,

◊ Employer payment of individual health insurance premiums on a pre-tax basis, and

◊ Standalone 125 salary-reduction plans for employee health insurance premiums

There are some exceptions to these reforms that include:

◊ Plans with fewer than two participants who are current employees,

◊ Plans that provide only ancillary benefits, including

- Accident-only coverage
- Disability income
- Certain limited-scope dental and vision benefits
- Benefits under an employee assistance program, if the program does not provide significant benefits in the nature of medical care or treatment.

Small employers (fewer than 50 full-time employees) are not required to provide health insurance to their employees under the ACA. **If they choose to do so, the plan must be ACA compliant otherwise they will be subject to a possible excise tax of $100 per day per employee violation.** One way to avoid this substantial penalty is to include the reimbursement amount as wages subject to FICA and income tax. Secondly, In lieu of offering health insurance, employers may choose to increase the employee's salary to assist in the cost of purchasing their own personal health insurance. Remember, certain employees could qualify for the Premium Assistance Credits if they purchase their own insurance on the Individual Exchange!

Failing to comply with the ACA's requirements can cause severe consequences, so it is imperative for small business owners to review their plans to ensure it aligns with ACA requirements. Please visit your local Padgett office for more information, while there is still time to make adjustments.

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Unreimbursed Business Expenses

Ideally, all business expenses are paid directly from the businesses' own funds. However, occasionally employees, corporate shareholders, partners, and sole proprietors pay for business expenses with personal funds as a matter of necessity or convenience. In some cases, the business reimburses the individual for these expenses, but often the individual fails to seek reimbursement or the business has no provision for reimbursement. Depending on the circumstances, the unreimbursed business expenses may or may not be deductible by the individual taxpayer. Below are three tax planning strategies for dealing with business expenses paid with personal funds.

1. **Use of an accountable plan- deduction allowed on the business return.**
    - Employees, shareholders, and partners should seek reimbursement for business expenses through an accountable plan or some other reimbursement system.
    - If a reimbursement policy is in place, and the employee, shareholder, or partner fails to seek reimbursement, no deduction is allowed by the individual or the business.
    - When a corporation or partnership reimburses an employee, shareholder, or partnership for business expenses paid by the individual, the corporation or partnership can deduct the reimbursed amount from gross income.

2. **Claiming deductions on the personal return instead of the entity's return.**
    - Employee reimbursements that are paid under a non-accountable plan are added to W-2 income as wages. The individual can then deduct these employee business expenses on Schedule A as a miscellaneous itemized deduction. This also applies to a corporate officer that is an employee.
    - Certain corporate expenses paid by non-employee shareholders might qualify to be treated as investment expenses, deductible as miscellaneous expense on Schedule A, subject to the 2% AGI limitation.
    - If a partnership includes a provision in the partnership agreement requiring partners to pay certain business expenses of the partnership, those unreimbursed expense can be treated as trade or business expenses of the partner. Unreimbursed partnership expenses (UPE) are reported along with the partnership income on Schedule E, page 2 of the individual partner's tax return.

3. **Tax deduction on personal return not allowed or not desired**
    - Taxpayers who do not itemize on their personal return will get no benefit from deductions for unreimbursed business expenses and should make use of accountable plans for reimbursement of employee business expenses.

Shareholders who are not entitled to deduct corporate business expenses on their personal return or not entitled to reimbursement can treat the payments for corporate business expenses as a capital contribution, increasing their stock basis. They may also treat the payments as a loan to the corporation as long as proper loan procedures are followed, which will also increase their stock basis.