

# Compliance Considerations for New Business Owners

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# What is Compliance?

- ▶ Compliance - efforts to ensure that companies are aware of and take steps to comply with relevant laws and regulations.
- ▶ Examples of Compliance
  - ▶ Common Business Filings
    - ▶ Annual Business Tax Return (1120S, 1065)
    - ▶ Quarterly & Annual Payroll Tax Returns (941, 940, W-2)
    - ▶ Quarterly Sales Tax Filings
    - ▶ Annual information returns (1099)
    - ▶ Other Information Reports (state agencies)

# Understanding Compliance Regulations - Annual Business Return

- ▶ Depending on choice of structure and number of owners, there may be the requirement to file a separate business return.
- ▶ Application for EIN online- confirms return type and deadline
- ▶ Will be due on either March 15<sup>th</sup> or April 15<sup>th</sup> of the following year, depending on structure
  - ▶ Multi-Member LLCs (treated as a partnership) - March 15<sup>th</sup>
  - ▶ C Corporations - April 15<sup>th</sup>
  - ▶ S Corporations - March 15<sup>th</sup>
  - ▶ Single Member LLCs - April 15<sup>th</sup>
    - ▶ The information is reported directly on personal return - no separate return required.

# Understanding Compliance Regulations - Payroll Tax Returns

- ▶ Payroll tax returns are due quarterly
  - ▶ 1 month after the end of the quarter
- ▶ Most common forms to be filed are Form 941 (Federal) and NYS-45 (NYS).
  - ▶ These will report wages, taxes withheld, SS & Medicare taxes and any State unemployment insurance.
- ▶ Due date for withholding can vary greatly depending on number of employees, size of payroll and frequency of payroll.
- ▶ Annual forms (W-2) due to employees 1 month after year end, and due to agencies 1 month afterwards
- ▶ Strong consideration should be given to outsourcing (i.e. ADP or Paychex) payroll processing
- ▶ Payroll tax is a “trust fund” tax - potential personal liability

# Understanding Compliance Regulations - Sales Tax

- ▶ Sales tax should be charged generally only on sales of tangible personal property (goods) and certain services as described in the state law.
  - ▶ Taxability of services and certain goods can vary from state to state and county to county.
  - ▶ Generally, only have to charge sales tax for sales in states where you have NEXUS, a physical connection to that state
- ▶ Sales tax returns are initially due quarterly, but can be done annually or monthly depending on volume.
- ▶ Sales tax is a “trust fund” tax - potential personal liability

# Understanding Compliance Regulations - Annual Information Returns

- ▶ Certain types of payments (interest, dividends, rents, royalties, non-employee compensation) are required to be reported to regulatory agencies.
- ▶ This reporting is done via Form 1099.
  - ▶ Due to recipients 1 month after year end and the agencies 1 month after that.
- ▶ The information needed is gathered via Form W-9
  - ▶ Tip: You should get a Form W-9 from most vendors you deal with PRIOR to issuing payment
- ▶ Penalties for non-filing exist; however, generally burden is on recipient to report income

# Understanding Compliance Regulations - Other Information Returns

- ▶ State agencies, such as the Secretary of State, will require either annual or bi-annual information reports detailing the owners of the business, registered agent if any and a few other facts, depending on the state.
- ▶ NY required a Bi-annual statement and \$9.00 fee, and is done online.
- ▶ If doing business in multiple states, may be required to register to do business in other states and file annual business tax returns and information returns within those states.

# Other Compliance Considerations – Accounting Information System Practices

- ▶ Accounting Information System (Books and Records) will be the underlying source documents and information needed with regard to compliance related activities.
- ▶ “An ounce of prevention is worth a pound of cure”
  - ▶ Starting with a complete and accurate system from the start of the business will help avoid future regulatory nightmares and issues.
    - ▶ No records for an IRS Audit
    - ▶ Financial and Human Capital Costs fixing prior mistakes
    - ▶ Reliance on poor information for business decisions



# Other Compliance Considerations – Accounting Information System Practices

- ▶ Some best practices to consider for your accounting information systems
  - ▶ Get a W-9 from most vendors to make issuing 1099s simpler at year end
  - ▶ Use an accounting software package such as QuickBooks
  - ▶ Have a separate business bank account and credit card
  - ▶ Keep records related to business transactions (invoices, cancelled checks, bank statements) for 4 years
  - ▶ Keep records related to Capital Expenditures for at least 3 years after disposal
  - ▶ Keep tax returns indefinitely
  - ▶ With electronic systems, storing records even longer should not be the burden it would be with paper records.



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# Other Compliance Considerations – Employment Laws & Regulations

- ▶ Employee vs Independent Contractor
  - ▶ Current hot issue with Department of Labor and IRS
  - ▶ Generally depends on the degree of control and supervision of the person in question.
- ▶ Workers Compensation & Disability Insurance
  - ▶ NYS requires ALL employers to have proper Workers Compensation and Disability Policies
    - ▶ Most payroll processors now offer this service
    - ▶ Annual workers compensation audit
    - ▶ Retain COIs for all subcontractors