



SJ ASSOCIATES NYC, LLC
TAX CONSULTANTS

2021 End of Year Business Newsletter

Dear Client,

Happy Holidays!

We hope you have had a wonderful and blessed year. We hope you and your loved ones are safe and healthy.

For those who need business loans, below are a few you can consider.

The Economic Injury Disaster Loan (EIDL) is still available to all eligible small businesses until December 31, 2021. SBA will continue processing applications after the deadline, including reconsiderations. They are unable to accept new applications after the deadline. You can find more details at the below SBA website:

<https://www.sba.gov/funding-programs/loans/covid-19-relief-options/eidl/covid-19-eidl>

The NYS Recovery Grant Program is still open. It was created to provide flexible grant assistance to viable small businesses in NYS who have experienced economic hardship due to the COVID-19 pandemic. The grant awards will be calculated based on business annual gross receipts for 2019. You can find more details at the below link:

<https://nysmallbusinessrecovery.com>

The SBA microloan program is now available for small business owners for up to \$50,000 with interest rate of 6.5%. These loans are not forgivable loans. You don't have to show that your business has been impacted by COVID and even if you have an existing Paycheck Protection Loan, you can still apply. These loans may be used to supplement working capital, or to purchase furniture, machinery & equipment. They cannot be used to pay off other debt or purchase real estate. You can find more details at the SBA website below:

<https://www.sba.gov/funding-programs/loans/microloans>

A new grant program just came out called the NYC Small Business Resilience Grant. It is a \$10,000 grant designed to help eligible small businesses to recover from the economic hardships that occurred because of the COVID-19 pandemic. For more details, please go to the below website:

<https://covidresilience.nyc/>

As the year end approaches, there are some key deadlines you need to be aware of and steps that you can take to help minimize your 2021 income tax liability.

Here are the filing due dates for each type of filing for tax year 2021:

- S-Corporation and Partnership tax returns are due on March 15, 2022
- Calendar year end C-Corporation tax returns are due on April 18, 2022

Pass-through Entity Tax (PTET)

We sent out emails about the NY PTET back in September 2021. To recap, an entity is allowed to pay a pass-through entity tax that can count as a business deduction, then be claimed as a credit on the taxpayer's personal tax return. The election must be made each year. For NY, the 2021 PTET election deadline has passed. Entities that opted in may make optional estimated PTET payments online for 2021 beginning on December 15, 2021. For NJ & CA, the election deadline for year 2021 is on March 15, 2022 which is the original due date of the entity's tax return. Tax payments should be made by December 31st for you to receive the deduction on your 2021 tax return. We would need your books with completed year to date information in order to do tax projection for this PTET calculation.

1099 & W-2 Preparation

- If you are self-employed or in business and have paid \$600 or more by cash or check to an individual or unincorporated business, including LLC's, who have performed services for you this year, you are required to issue that contractor a 1099-NEC form. **The deadline for filing 1099 forms with the IRS is January 31, 2022**, which is the same day that you must send them to your payees.

Payments made by any payment settlement entity (PSE) like a credit card or PayPal do not need to be included in the 1099-NEC. The PSE is required to send you a Form 1099-K if it has processed at least \$20,000 worth of payments **and** at least 200 transactions for you during the year. Many PSE's do still issue 1099-K forms to all their vendors, even if their transactions are below the threshold.

Please do not forget to file your 1099 forms. The IRS can disallow your deductions for payments to subcontractors if you do not send them 1099 forms. There are also penalties for not filing 1099's. The later they are, the greater the penalty. The maximum penalty is \$270 per missing 1099 form, unless it is found to be intentional, and then it is \$550. Please file your 1099's.

- **1099 Alert** - The IRS still has the question on the tax return that specifically asks if you made any payments in 2021 that would require you to file a form 1099, and if yes, did you file all the required 1099 forms. **This question makes it even more imperative that you file all required 1099 forms.**

1099 & W-2 Preparation (continued)

- If you have any employees, you must provide W-2's to them by January 31, 2022. The deadline for filing these forms with the IRS is also January 31, 2022.

If you need our help in preparing either of these forms, please contact us in January.

PPP Loans

For those of you who received your PPP loans through our firm and haven't received the forgiveness yet, we have been working very hard to submit the applications for you. You will hear from us very soon when it is your turn to file for forgiveness.

For those who received your PPP loans from other lenders, you must let us know if you need our help applying for forgiveness. If your PPP loan was \$150,000 or less and you used all the funds for payroll and other forgivable expenses, you can use form 3508S. It is a one-page form where you affirm that you used the loan for qualified expenses, but you don't need to submit the supporting documents with the application. Remember for the purpose of the PPP, if you are self-employed, your compensation is considered to be payroll so this 3508S form would apply to self-employed people with PPP loans under \$150,000 also. Forgiveness applications are due 10 months from the end of the covered period. These applications need to be filed through the bank that issued the loan. You will normally receive an email from the bank to let you know. If you need help with the forgiveness application and have not reached out to us yet, please let us know. There is a fee for our assistance.

Foreign Account Reporting Requirement

If your company has any foreign financial accounts, anyone who has signature authority over those accounts must file an FBAR form (Foreign Bank Account Reporting) if the aggregate value of the foreign financial accounts where they have signature authority exceeds \$10,000 USD at any time during the calendar year. Both the company, and the signatory partners, owners and employees must file the forms. This is only for informational reporting, there is no tax impact for this reporting. IRS can impose a large penalty for failure to file.

C- Corporations and S-Corporations

1) When you work for your own corporation, you are required to pay yourself reasonable compensation in the form of a salary though payroll.

- Please contact your tax accountant for year-end tax planning so we can evaluate your salary versus your business profit and determine whether anything needs to be adjusted. If necessary, your corporation could pay you a year-end bonus.
- Please be aware that due to a NYS Mandate, NYS Payroll Tax Returns must be filed electronically. In order to be included for the 2021 tax year, in most cases, all final payroll numbers must be processed by your payroll company by December 22nd.
- If you are already set up for payroll through your corporation, please contact your tax accountant for year-end payroll tax planning.
- If you have not set up a payroll account, please contact your tax accountant immediately so appropriate steps can be taken.
- If we are going to assist you with calculating your salary or year-end bonus, please provide us with your income and expense records. To ensure timely processing, the information must be provided to us by December 10, 2021.

2) For S-Corporations Only: If you are a more than 2% owner and you or the Corporation pays health insurance premiums for you (and your family), this is tax deductible, but there are special rules that apply to how this is reported.

- If you are paying for health insurance through your corporation, you must add the amount of health insurance premium paid in 2021 to Box 1 and Box 14 of your Form W-2 form. It is imperative that you let your payroll tax preparer know prior to December 23rd the amount of health insurance premiums paid in the year 2021. Otherwise, you will not be able to deduct the premiums as an adjustment to income.

3) Payroll tax forms (4th Quarter 2021 and Annual 2021) are generally due to the government by January 31st. However, if your payroll tax returns are being processed by a payroll processing company, the information needs to be processed by the payroll company by December 18th, in most cases. The payroll company then has until January 31st to generate the reports and file them with the applicable government agency. Please provide your information ahead of that date to allow time for proper processing. If our office processes your payroll, we will need your salary information by December 17, 2021 to ensure proper processing.

4) For corporations operating in New York City, if you need to pay NYC corporate estimates, the 4th quarter payment is due December 15th. If you haven't made your estimated payment by December 15th, it needs to be made by December 31st for you to receive the deduction on your 2021 tax return.

5) If you have a company retirement plan which allows employee (*i.e.* you and any workers on payroll) salary deferrals, in addition to employer contributions (*i.e.* in the name of your corporation), please remember that generally, the employee contribution must be deposited by December 31st for it to be deductible in the current 2021 tax year. The employer contribution can be made as late as the business tax return deadline including extensions (*i.e.* March 15, 2022 or September 15, 2022 with a valid extension).

6) If your contributions to your 401k plan are not at the maximum level yet, and you want to maximize your contributions, you must do this through your payroll service company in the next few weeks. The deadline for deposit is on December 31, 2021.

Partnership (PS), Limited Liability Company (LLC), and Limited Liability Partnership (LLP)

- As the (part-) owner/operator of your PS/LLC/LLP, you do not receive a salary. Thus, there is no payroll for you. Payroll would only be applicable if you have employee(s) working for your company.
- For PS/LLC/LLP's operating in New York City with NYC Unincorporated Business Tax (UBT) due, the 4th quarter payment is due January 18, 2022. However, for any cash method taxpayers, it is recommended that you prepay the tax by December 31st, so that it counts as a 2021 tax deduction. If you pay it in January, it will instead count as a tax deduction for the 2022 tax year.
- Company retirement plan – (see item # 5 above for Corporations). Please make your employee contributions by December 31st. Employer contributions can be made as late as March 15, 2022 (or September 15, 2022 with a valid extension).
- New York State filing fee (Form IT-204-LL) – This tax form and the payment are due March 15, 2022 and applies to all active LLCs and LLP's operating in NYS. The filing fee is applicable to a PS only if the partnership has New York source income of at least \$1 million. If we prepare the form it must be e-filed and paid for by direct bank debit/auto withdrawal.

Electronic Payment of Payroll Taxes

- Federal and State governments require payroll taxes to be paid electronically.
- Only in rare instances can you make your tax payment via check through the mail without incurring a penalty from the government. This would apply when the tax owed is below certain levels, which likely may not be applicable in your situation. Thus, you should have active electronic payment accounts with Federal, New York, and/or New Jersey.
- If you have not registered with the government's electronic payment system and you need to issue payroll by December 31st, you need to register ASAP. There is a lag time of approximately five (5) working days from initial registration to receiving approval of the online account.
- Please contact your tax accountant immediately if you need assistance with registering your business for any of the following payroll tax programs:
 1. Federal: EFTPS (Electronic Federal Tax Payment System)
 2. New York: NYS-1 Web File
 3. New Jersey: EFT (Electronic Funds Transfer)

Notes to All

Meals & Entertainment:

As part of the Consolidated Appropriations Act signed into law on December 27, 2020, food and beverages will be 100% deductible if purchased from a restaurant in 2021 & 2022. Entertainment expenses like a sporting event or tickets to a show, are still non-deductible.

De minimis Safe Harbor Limitation:

The IRS allows a *de minimis* safe harbor election that permits a taxpayer to not capitalize tangible property. Instead, it can be expensed as an ordinary and necessary business expense. The *de minimis* safe harbor limitation for a taxpayer without an applicable financial statement is \$2,500 per invoice (or item).

Business Mileage Guide Methods:

Business transportation expenses can be calculated for tax purposes in one of two ways – standard mileage rate or actual expense method. In both cases a contemporaneous record must be kept of business miles, commuting miles, personal miles, and total miles.

The standard mileage rate can be used if you do not hire out your car or operate a fleet. The 2021 rate is 56¢ per mile.

The actual expense method can be used if you are unable to use the standard mileage rate. If your vehicle is costly to run or weighs more than 6,000 this method is usually preferable. You are required to maintain a record of all vehicle expenses as the deduction is calculated by applying a percentage of business miles over total mileage. Expenses include gas, oil, repairs, tires, batteries, insurance, supplies, monthly parking, washes, and waxes. The applied percentage will also include a percentage of lease payments or depreciation.

Any expenses for parking and tolls directly used for business can be deducted on top of either method.

- **Business Loans:** It is important that all loans between owners and the corporation be documented.
- Short term unwritten advances of less than \$10,000 are acceptable if they are treated as debt and are expected to be repaid within a reasonable period of time.
- Debt of over \$10,000 needs to be documented with a promissory note that includes a fixed maturity date and a reasonable interest rate that will create taxable income as it is repaid.
- **Gifts to Employees:** If you are planning to give your employees a holiday gift, make sure it is *de minimus* and not in cash, otherwise it will need to be included in wages.

Notes to All (continued)

- Is your independent contractor really an employee? Please be aware that both the IRS and State taxing authorities are increasingly scrutinizing this issue. Improperly treating employees as independent contractors could result in stiff penalties (e.g. you may be subject to a civil penalty of \$2,500 to \$5,000 per employee) in addition to the related taxes you would normally be subjected to as the employer. If this is an area of concern for you/your company, please contact your tax accountant. Upon request, we will provide you with additional information regarding how to evaluate the “Independent Contractor vs. Employee.”
- **Issuing Form 1099s** - The law requires that a Form 1099-NEC (new form in 2020) be sent to each independent contractor and vendor (except when the recipient is a corporation) to whom you have paid \$600 or more in a calendar year. This must be issued to the recipient by January 31, 2022. Additionally, the 1099's along with the Form 1096 summary must be filed with the IRS also by January 31, 2022. If you need assistance with preparing these forms, please contact your tax accountant starting mid-December 2020 but no later than the 1st week of January 2022.
- As a reminder, effective January 1, 2013 - IRS requires additional record keeping for your income. You need to keep a separate sub-total on income received as (1) cash/check payments and (2) credit card/electronic/online payments. Third party institutions such as AMEX, Visa, and PayPal will be reporting the sales collected on your behalf to the IRS and will issue tax Form 1099-K to you. Thus, the IRS is increasing its ability to independently verify

your income with outside third parties and accordingly, we are required to separately report the income amounts on your 2021 tax return.

Final Notes to All

Please be aware that there is a fee associated with the year-end tax planning work.

- If you need year-end tax planning for your personal taxes and/or company taxes, please contact your tax accountant by early/mid-December. Please be aware that the earliest deadline mentioned above was the NYC Corporation tax, due December 15th, so please plan accordingly.
- Please send over either your QuickBooks file or business records (*i.e.* summary of income and expenses) for the 2021 calendar year as soon as possible. If you can accurately project the income/expense for the remainder of this month, please do so, as this will be helpful in the tax planning process. If you use QuickBooks on-line and you have not already invited your accountant to have access to your file, please do so now.
- Please make sure you have your QuickBooks file fully reconciled for all bank and credit card accounts. Any **current year** outstanding items must be reviewed and deleted, if necessary. **Do not** delete any prior year's outstanding items without checking with your accountant at our office.

We look forward to working with you over the next few weeks on any of the items referenced above, as well as your annual return during the normal tax filing season leading up the tax deadlines.

We wish you a happy and healthy holiday season.

Sincerely,

The Staff of SJ Associates

www.sjtax.com

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