



## Tidbits – September 30, 2009

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### **8(a) Reporting Requirements**

Per 13 CFR 124 Part .602, 8(a) companies are required to submit financial statement annually. Compiled and review financials are due 90 days after the close of the fiscal year end and audited financials are due 120 days after fiscal year end. The requirements are as follows:

- Sales less than \$1million – compiled financial statements prepared in house or by CPA
- Sales \$1 - \$5million – reviewed financial statements prepared by CPA
- Sales greater than \$5 million – audited financial statements

Failure to submit on time makes you ineligible for 8(a) contracts and any other SBA support and can lead to program termination. In CJA's experience, reasonable requests for extension of the deadlines have been granted. We have posted a copy of the SBA's Reporting Requirement PowerPoint presentation in the Public folder on the portal.

### **Executive Compensation Cap for Fiscal Year 2009**

On May 21, The Office of Federal Procurement Policy published the maximum amount of executive compensation allowed under government contracts is \$684,181 for calendar year 2009. This includes accrued compensation. The compensation limit applies to the top 5 executives.

### **Misuse of T&M contracts by CO's**

The GAO found that contracting officers are commonly under the mistaken impression that the fixed labor rates in T&M contracts make those contracts fixed price. Per FAR Part 12, T&M contracts are to be used only if no other type is suitable and cost growth is monitored. The GAO recommends amending the FAR to clarify that T&M contracts are not fixed price.

### **FAR modified to prohibit granting contracts to inverted domestic companies**

FAR 9.108 prohibits award of contracts to any foreign incorporated entity that is treated as an inverted domestic corporation or any subsidiary of such an entity. An inverted corporation is defined as a corporation that used to be incorporated in the United States, or used to be a partnership in the United States, but now is incorporated in a foreign country, or is a subsidiary whose parent corporation is incorporated in a foreign country. This is done to avoid US taxes on business income generated in foreign countries. If certain criteria are met, the foreign corporation is treated as an inverted domestic corporation for U.S. Federal income tax purposes.

### **Section 179 and Bonus Depreciation for assets placed in service during 2009**

The American Recovery and Reinvestment Act (ARRA), enacted in February 2009, extended the bonus depreciation and increased the section 179 deduction. The new law extends through 2009 the special 50 percent depreciation allowance, also known as bonus depreciation, and increased limits on the section 179 deduction to \$250,000. This limit is reduced by the amount by which the cost of section 179 property placed in service in the tax year exceeds \$800,000. Without the new law, the limit would have dropped to \$133,000. The existing \$25,000 limit still applies to sport utility vehicles.

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The information provided here is in summary form and does not reflect the IRS tax codes in there entirety. If a particular situation may be applicable to you, please consult your tax advisor.



### **2010 HSA Limits announced**

- Annual Contribution Limit: \$3,050 individual, \$6,150 family coverage
- Catch-Up Contribution: \$1,000 per account holder over age 55
- Minimum Deductible \$1,200 individual, \$2,400 family coverage
- Maximum Out of Pocket \$5,950 individual, \$11,900 family coverage

### **Unemployment Rates to increase for Virginia and Maryland**

When Virginia's unemployment fund falls below 50% of the level deemed "sufficient" by the state code, as is expected to occur, a mandatory fund builder tax is automatically added to all employers' contribution rates. This additional levy will begin January 2010 and remain in place until the fund is rebuilt to at least 50% solvency. The projected employer contribution for 2010 is approximately \$171 per employee.

Maryland employers will face significantly higher unemployment insurance (UI) tax rates beginning next year, factoring in whether the employer had laid off any employees in the past year. Minimum rated employers, those who have not laid off employees, will see their rates increase from \$51 per employee to \$187 per employee. The rate increase for employers that have laid off employees in recent years will be higher, up to the maximum rate, which will increase from \$765 per employee to \$1,147.50 per employee.

### **Maryland Workplace Fraud Act**

The law provides the state with tools to crack down on workplace fraud, which involves employers who wrongly classify their employees as independent contractors or do not classify them at all. This practice allows employers to cut payroll costs significantly, leaving workers unprotected by critical workplace protection laws and creating a competitive disadvantage for those employers who play by the rules. The new law makes it a violation of law to fail to properly classify workers as employees, and it imposes penalties on those employers who knowingly misclassify their workers. The law also clarifies the definition of an independent contractor. The law takes effect October 1, 2009. CJA will be attending a seminar on this new law in November and will provide updated information to Maryland clients.

### **IRS Updates Rules for Employee Expense, Travel Expense and Substantiation**

IRS released Revenue Procedure 2009-47, which is its annual update to the substantiation rules for business travel expenses when an employer provides a per diem reimbursement allowance. The revenue procedure covers situations in which an employee incurs lodging, meal and incidental expenses or just meal and incidental expenses (M&IE) while traveling away from home on business. The revenue procedure sets the general federal M&IE rate at \$59 for the continental U.S. (CONUS) and at \$65 for locations outside the continental U.S. (OCONUS). Taxpayers do not have to use the methods described in the revenue procedure if they maintain adequate records to substantiate actual expenses. It is effective for expenses paid to an employee on or after October 1, 2009.

### **Consumer Price Index (CPI) was -1.5% as of August 2009**

CPI represents the change in prices paid by consumers. It is often used as an economic indicator, as a means of adjusting dollar values, and as the escalation rate on government contract pricing (labor and T&M rates).

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*Table 3 – Consumer Price Index for Urban Consumers (CPI-U): Select local areas, all items*  
Percentage change from July 2008 to July 2009 = -.9% for DC-MD-VA-WV

**Employment Cost Index (ECI) was 1.8% as of June 2009**

ECI represents the change over time in labor costs. It is used in determining escalation for the GSA Schedule rates.

*Table 5 – Employment Cost Index for Total Compensation, for private industry workers by occupational group and industry*

Professional, scientific, and technical services

Percentage change from June 2008 to June 2009 = 2.0%

Percentage change from March 2008 to March 2009 = 2.9 %