New 2007 Corporate Relocation Payroll and Tax Issues

DVERC

October 11th, 2007

New 2007 Tax Cut Legislation

1) AMT Taxes effects – could affect 10 times more taxpayers, "Target" result is the corporate transferee. (higher gross-ups). See RTA pages 10 and p.40
2) Child Tax Credit is $1,000 per child under age of 17 See RTA page 11
3) All Tax Brackets where indexed for inflation (significant lower gross-ups in 2007) See RTA p.11. ***Brand new*** – lower phase-outs for 2% itemized deductions (went from 3% to 2%) - and lower phase-out for personal exemption amounts 1/3 reduction vs. 2006 and a new minimum of $1,133 ($3,400 x. 3333%) per personal exception. *Average $275/move savings*
4) The Supplemental Payroll Withholding Rate Remains at 25%. If payment is over 1 million dollars – then a 35% withholding is required. See RTA p.7
5) New State General Sales Tax Deduction – Applies mainly to transferees in nine (9) no income tax states. AK, FL, NV, NH, SD, TN, TX, WA & WY (lower gross-ups) See RTA page 12 and page 40
6) PMI Interest Deduction – (lower gross-ups) See RTA page 40
7) Mortgage Interest – Prepayment Penalties – Usually Deductible as Interest.
8) Paybacks – Repayment of Wages – Claim of Right Rules.

Hot!!!! 2007 Relocation Tax Issues

1) Temporary Assignments – 1 year rule – business vs. taxable. See RTA pages 8 & 9 also Revenue Ruling 93-86. New Trend to "reconcile" state taxes – "Keep Employee Whole For State Income Tax ". The methodology used is to calculate what the employee "would have paid in Federal and State/Local taxes – then compare that amount to what the employee "actually paid" in Federal and State/Local taxes. The difference between the two amounts is the amount due the employee. Some issues to consider are:
   a) Any State income tax dollars that were "advanced" or "loaned"
   b) The taxability of "advances" or "loans"
   c) Multi-state tax credits taken or not taken on state tax returns
   d) Non-Resident and Part-Year Resident state tax returns
   e) Administration of the program – "loans", "advances" and "repayments"
   f) HR3359 - Nonresident Withholding Update – 60 day rule? "Athlete," "Entertainer," "Corporate Employee" and "Public Figure."

2) Global Assignments – Stealth Expatriates – tracking issues. See RTA pages 14 & 15.
3) E-Solutions – New trends – reloviewsGOV™
4) US Government(WITA/RITA)-Sen. Grassley - GRAB. See RTA pages 34 & 35.
5) State and Local General Sales Tax Deductions. See RTA page 40
6) IRS Revenue Ruling 2005-74 – Corporate home sale procedures clarified.
7) Capital Losses on home sale are NOT deductible. See RTA page 2

IRS Tax Forms:

(1) RTR - "Relocation Tax Report" - replaces "IRS Form 4782". See RTA page 21
(2) 3903 - "Moving Expenses" - taxpayer required. See RTA page 25
(3) Sch.D - "Capital Gains and Losses" - replaces "IRS Form 2119"

New 2007 Federal, State, Local and F.I.C.A. (Social Security – 6.20%) $97,500 & Medicare 1.45% unlimited) tax brackets. Projected 2008 limit is $102,300.

States that follow the pre-1994 "rules" allowing the final move meal deduction / exclusion.

NJ* / PA**

** Allows only a 100% exclusion of Final Move Meals on NJ-1040*
*** Allows a 100% deduction of Final Move Meals on PA-40R-UE-1*

Penalties for Failure to Withhold taxes on a timely basis. Most all relocation expense reimbursements are subject to withholding at the time of payment. Most companies use the Supplemental rate of 25% and apply a gross-up percentage. Accountable Plan rules apply, using the 30/60/120 rule. Taxable moving expenses (lump sums) are treated as if they were paid under a "non-accountable" plan. An average penalty of $8,000 per move could cost a company that relocates 200 employees per year, 1.6 million dollars for each year of non-compliance.

Tax Saving Strategies (Withhold/Gross-up)

(1) When ever possible, always look for a business purpose for an expense. For example, Moves less than 1 year (temporary assignments), a Pre-employment physical, House Hunting Trips as business trips (breakout spouse expenses). Use a TP Home Sale Company or Qualified In-House Program.
(2) Have trained relocation tax expense professionals tax code and audit all expenses entered from the transferee's expense report.
(3) Do not include either Van Line or Final Move expenses in a "Lump-Sum" allowance. Why? Because not taxable when receipts are provided. Employees can still deduct their moving expenses even if they receive a lump sum that is taxable and grossed-up.
(4) Re-capture any FICA overpayments – Year-end "true-up" – only adjust for "negatives" differences.
(5) Explain/Educate transferees with regard to how their gross-up was calculated.

10 Things Every Transferee Should Know Before Moving

1) Income will be inflated due to moving expenses paid by your company. Make sure that your federal and state withholdings are sufficient to cover the increase. Also, the year after the move, most transferees are more likely to be under withheld. If in doubt, contact your tax advisor. See RTA p.7

2) Make sure that a state W-4 form has been prepared and given to your payroll department so that withholding is being taken out in the proper state. YOU ARE REQUIRED TO HAVE WITHHOLDING TAKEN IN THE STATE THAT YOU WORK IN, EVEN IF YOU ARE A RESIDENT OF ANOTHER STATE! This should become effective the first paycheck received in the new place of employment. See RTA p.7, 12 and 13

3) In addition to the state, your new city may also require tax to be withheld. Review your first pay stub to make sure that this is being done (if applicable).

4) Keep in mind that excess FICA withheld from two or more employers is refundable, Line 67 IRS tax form 1040. Affect both working spouses.

5) You have up to two years to satisfy the time test, to establish permanent residency, in order to deduct moving expenses.

6) Special costs, that are unique to you, are also deductible as moving expenses such as pets, horses, aquariums and tips paid to “movers & packers. See RTA p.4

7) The cost of moving students, from their college to the new location, is deductible.

8) In the year that you move, remember that any non-amortized points on a refinanced loan can be deducted if you sell your house. See RTA p.8

9) Premature distributions from pension plans are not only taxable as income but incur a 10% penalty unless rolled over within 60 days. There is often a misconception how the rules for first time homebuyers work. Also in the year of a move, income is inflated and this is probably ***not a good time*** to take an early distribution.

10) The year after the move, significant potential for under withholding penalties exist. It could be hard to meet any of the safe harbor rules: Owe<$1,000, or pay at

least 100% of last year's liability, if AGI is >$150k, then pay 110% of last years liability.

Tax Tables

1/1/2007

	2006		2007	
Value of Exemptions:	$3,300		$3,400	
Child Tax Credit	$1,000		$1,000	
Social Security (OASDI):	$94,200	6.20%	$97,500	6.20%
Medicare:	$99999999	1.45%	$99999999	1.45%
Supplemental Rate:	25% / 35% if over 1 million		25% / 35% if over 1 million	
Mileage Factors	$0.445 / $0.18		$0.485 / $0.20	

		2006	2007
Standard Deduction:	**MFJ**	$10,300	$10,700
	MFS	$5,150	$5,350
	HH	$7,550	$7,850
	SNG	$5,150	$5,350
Exemption Phaseout*:	**MFJ**	$225,750	$234,600
** For each $2,500 ($1,250 MFS)*	**MFS**	$112,875	$117,300
that AGI exceeds the threshold,	**HH**	$188,150	$195,500
2% of exempt. value is lost (in '06 & '07, multiply phaseout calc. by 2/3)	**SNG**	$150,500	$156,400
Itemized Ded. Phaseout*:	**MFJ**	$150,500	$156,400
** For each dollar that AGI exceeds*	**MFS**	$ 75,250	$ 78,200
the threshold, 2% in '06 & '07 of	**HH**	$150,500	$156,400
item. ded. is lost (limit of 53.33% of total deductions in '06 & '07)	**SNG**	$150,500	$156,400
Child Tax Credit Phaseout*:	**MFJ**	$110,000	$110,000
** For every $1,000, or fraction thereof,*	**MFS**	$ 55,000	$ 55,000
that AGI exceeds the threshold, $50	**HH**	$ 75,000	$ 75,000
of the child tax credit is lost.	**SNG**	$ 75,000	$ 75,000

Tax Rates

			Tax Rate	Gup%			Tax Rate	Gup%
Marr. Filing Joint:	$ 0 -	$ 15,100	10%	11.11%	$ 0 -	$ 15,650	10%	11.11%
	$ 15,100 -	$ 61,300	15%	17.65%	$ 15,650 -	$ 63,700	15%	17.65%
	$ 61,300 -	$ 123,700	25%	33.33%	$ 63,700 -	$ 128,500	25%	33.33%
	$ 123,700 -	$ 188,450	28%	38.89%	$ 128,500 -	$ 195,850	28%	38.89%
	$ 188,450 -	$ 336,550	33%	49.25%	$ 195,850 -	$ 349,700	33%	49.25%
	$ 336,550 -	+	35%	53.85%	$ 349,700 -	+	35%	53.85%
Marr. Filing Sep:	$ 0 -	$ 7,550	10%	11.11%	$ 0 -	$ 7,825	10%	11.11%
	$ 7,550 -	$ 30,650	15%	17.65%	$ 7,825 -	$ 31,850	15%	17.65%
	$ 30,650 -	$ 61,850	25%	33.33%	$ 31,850 -	$ 64,250	25%	33.33%
	$ 61,850 -	$ 94,225	28%	38.89%	$ 64,250 -	$ 97,925	28%	38.89%
	$ 94,225 -	$ 168,275	33%	49.25%	$ 97,925 -	$ 174,850	33%	49.25%
	$ 168,275 -	+	35%	53.85%	$ 174,850 -	+	35%	53.85%
Head of Household:	$ 0 -	$ 10,750	10%	11.11%	$ 0 -	$ 11,200	10%	11.11%
	$ 10,750 -	$ 41,050	15%	17.65%	$ 11,200 -	$ 42,650	15%	17.65%
	$ 41,050 -	$ 106,000	25%	33.33%	$ 42,650 -	$ 110,100	25%	33.33%
	$ 106,000 -	$ 171,650	28%	38.89%	$ 110,100 -	$ 178,350	28%	38.89%
	$ 171,650 -	$ 336,550	33%	49.25%	$ 178,350 -	$ 349,700	33%	49.25%
	$ 336,550 -	+	35%	53.85%	$ 394,700 -	+	35%	53.85%
Single Rates:	$ 0 -	$ 7,550	10%	11.11%	$ 0 -	$ 7,825	10%	11.11%
	$ 7,550 -	$ 30,650	15%	17.65%	$ 7,825 -	$ 31,850	15%	17.65%
	$ 30,650 -	$ 74,200	25%	33.33%	$ 31,850 -	$ 77,100	25%	33.33%
	$ 74,200 -	$ 154,800	28%	38.89%	$ 77,100 -	$ 160,850	28%	38.89%
	$ 154,800 -	$ 336,550	33%	49.25%	$ 160,850 -	$ 349,700	33%	49.25%
	$ 336,550 -	+	35%	53.85%	$ 349,700 -	+	35%	53.85%

Money Saving Policy Administrative Opportunities

2007 GROSS-UP DECISIONS	***YES/NO***	***Additional Cost/Savings Per Move****
Use Tax Tables	____	Several Thousand Dollars
State Taxes	____	Moved To / From / Both ? $1,000
Include Fed. in State	____	$350
Local Taxes	____	$150
F.I.C.A. Taxes	____	SS / Medicare / Both SS $1,000 / Med $250
F.I.C.A. Circular Logic	____	$400
Deduction/Exempt. Phase-out	____	$275 (New 1% Phase out reduction)
Assume Itemized Deduction	____	$600 (New GST)
Gross-up "Unqualified" Moves	____	$5,800
Misc. Expense Allowance	____	$5,000
COLA / MIDA	____	$6,000
$0.485/$.20 per mile	____	$150
Loss on Sale	____	$10,000
Home sale bonus	____	$3,000
Annualize New Hire Salaries	____	Several Thousand Dollars
Look at Non-itemizers (Renters)	____	$500
Third Party Home Sale Company	____	$9,000
Other	____	58% to 60% of Benefit Paid

* The dollar amounts presented are estimates only. The actual dollar amount will vary based on the total cost of the move, what state is used for tax purposes, and of course the company's relocation tax gross-up policy.

Some New "Hot"!!! 2007 Trends

- Year-end "true-up" or "difference" or "delta" calculation. Negatives only "adjustments".
- Only gross-up at supplemental rate [25%], let transferees come back and request more.
- Companies no longer automatically grossing-up for FICA (6.20% + 1.45%) $97,500 max.
- Companies reconciling state taxes for employees on temporary assignments.

* Savings documented well over $1,000 per move.

REPAYMENTS OF PRIOR YEAR WAGES

When an employee pays back relocation expenses from a previous year, the "claim-of-right" rules should be followed. The company should provide a W-2c to the employee with adjustments to W-2c boxes 3-6 (Social Security and Medicare wage and withholding boxes). The company should refund the Social Security tax overpayment (if any) and Medicare tax overpayment and obtain a signed affidavit from the employee stating that he/she received this refund from the company and will not claim a credit for the overpayment from the IRS. In addition, W-2c boxes 1 and 2 (Federal wage and withholding boxes) should *not* be adjusted.

Meanwhile, the employee should not file an amended tax return to retrieve Federal withholding. Instead, the employee will make an adjustment on his/her tax return for the year of repayment. The employee may be able to make the adjustment as either a credit or deduction (see page 33 of IRS Publication 525 or page 83 of IRS Publication 17 for more information). Generally for taxable relocation repayments of $3,000 or less, a deduction is taken on the Schedule A as a miscellaneous itemized deduction. For repayments over $3,000, the employee may take the Schedule A deduction or has the option of taking a credit for the repayment on line 70 of IRS Form 1040. A special calculation is required to compute the amount of the credit. The calculation is discussed in IRS Publications 17 and 525.

For more information, please see:
* Debera Salam's information on pages 43-47 of Orion Mobility's / Relocation Taxes 2007 conference book.
* IRS Publications 525, page 33 and Publication 83, page 17 (good information for taxpayers).
* IRS Publication 15 (Circular E), page 28 (partially reprinted below).

From page 28 of IRS Publication 15 (circular E):

Repayment of prior year wages. *If you receive repayments for wages paid during a prior year, report an adjustment on the Form 941 or Form 944 for the period during which the repayment was made to recover the social security and Medicare taxes. Instead of making an adjustment on Form 941 or Form 944, you may file a claim for these taxes using Form 843. You may not make an adjustment for income tax withholding because the wages were paid during a prior year.*

> *You also must file Forms W-2c and W-3c with the SSA to correct social security and Medicare wages and taxes. Do not correct wages (box 1) on Form W-2c for the amount in error. Give a copy of Form W-2c to the employee.*

Employee reporting of repayment. *The wages paid in error in the prior year remain taxable to the employee for that year. This is because the employee received and had use of those funds during that year. The employee is not entitled to file an amended return (Form 1040X) to recover the income tax on these wages. Instead, the employee is entitled to a deduction (or credit in some cases) for the repaid wages on his or her income tax return for the year of repayment.*