

2011 End of Year Checklist

(For Business Owners Only)

I hope you have had a good year so far, and I hope you will have a great finish. To assist you in that, this list of housekeeping suggestions will enable you to start the new year without a hitch. Also you will find some answers to questions about which you may have been wondering (and even some items about which you maybe should have had questions).

Please note that I prepared this for my own clients. However, I recognize that this will possibly get into the hands of many people whom I have never even met. Accordingly, I strongly recommend that before implementing any of these items, you check with your own tax preparer. And if there is any discrepancy, do whatever he or she tells you, and ignore my recommendations completely. However, you will still find this helpful as a checklist to make sure you have discussed many important items with your tax preparer, which you might have otherwise failed to bring up.

Christmas Gifts to Employees, Vendors, Customers, or Clients:

Christmas Bonuses. It is not necessary to give employees Christmas or Year-End bonuses. It's entirely voluntary. But many business owners do; so here is how it works:

Non-Cash Gifts. If you give a turkey or a fruitcake or any other food item, it is not income to the employee, but the cost is deductible to your business. Thus, any food, no matter how much it costs, falls under special, and very favorable, rules. Any non-food item, costing \$25.00 or less is treated the same way. It's a deduction to the business, but not income to the employee.

However, any **non-food gifts**, costing more than \$25.00 are just the opposite. While the business still gets a deduction, the value is income to the employee and has to go on his or her Form W-2 at the end of the year (no you cannot use a Form 1099). So, if you are thinking of giving an employee a more expensive gift (even as little as \$25.01), you will have to do withholding on it. That includes Social Security and Medicare, as well as regular income tax withholding, and you will have to pay the employer match. And that is true even if the employee gift is not in cash, but a tangible item. Even a gift certificate falls under these rules. Remember that food is exempt from this rule, regardless of the cost of that food.

Cash or Checks. If you want to give an employee a bonus or gift, in cash or check, it has to go through your payroll system. There are no exceptions, even for as little as \$25.01. Just call your payroll service and do the regular tax processing.

Net Checks. You may want to give an employee a check for an even number, like \$100.00 or \$500.00, or whatever. Just call your payroll service and get them to do what is called a "net check." Their software can easily figure out the payroll taxes backwards and give you a paycheck where the final amount is the even number you specify. For example, a check with a net of \$100.00 would require a gross pay of at least \$105.99. Computing a net check can be done manually, but payroll services can do it automatically. However, you have to specifically ask for this service (though there is normally no extra charge).

Tax Withholding. How much do you withhold on a bonus check? Obviously, you take out Social Security at 4.2% and Medicare at 1.45%, but if you use the regular tables for the income tax withholding portion, you may get a weird result. The tables (both manual and computer) are

designed for the pay period you use. If you have been paying weekly, the tables will think this extra amount will be part of weekly pay, and multiply it by 52 weeks, and thus take a much higher amount in tax withholding. That's because the tables or the computer will think the employee is much richer and has moved up to a higher tax bracket. To keep this from happening, get your payroll service to use a percentage (probably 15% for lower paid employees and 28% for higher paid employees). Or you can get your payroll service to use the annual payment tables or the one-time payment tables to make the computation, instead of the tables for your normal pay periods.

Other than Christmas. These rules apply just as much during all other times of the year. So if you give a non-food item, or cash, or a check, to employees for their birthdays, a bonus, or an incentive payment, or a prize, or on any other payment, keep these things in mind.

It is a good idea to verify Social Security numbers and addresses in December. You will need these for your Forms W-2 and 1099; so it's a good idea to ask your employees and vendors to check for accuracy when you make your December payments to them. Just put a little notice in the envelope.

Gifts to Customers or Clients or Vendors. Businesses are definitely allowed to give gifts to customers or clients or vendors. But you can only deduct the first \$25.00 in cost per person to whom a gift is given. The rules are completely different from employee gifts. There is no special deal for food items. As an example, if you give a non-employee a gift with a value of \$100.00, you will only be able to take a deduction of \$25.00.

End of Year Deposits and Payments:

Cash versus Accrual. If your business is on the **Accrual Basis**, you will be recording income when it is invoiced to your customers and recording expenses when they are incurred from your vendors. Accordingly, the dates on the invoices you send to customers and the dates of invoices your vendors send you are important. There is not very much related to receipts and disbursements that accrual basis taxpayers can do for year-end planning. Just pay attention to those dates.

For **Cash Basis** businesses, anything that you receive from customers prior to December 31st and deposit in your bank account is income in the current year. And payments you make for ordinary or necessary business expenses before December 31st are deductions in the current year.

What about the timing of deposits before January? The income is considered to be earned in the current year, if you make your last deposit in the ordinary course of business, during the current year. Personally, I normally date my last deposit slip December 31st, even if I can't get it to the bank until the first week in January. However, many businesses are closed the last week of the year between Christmas and New Year, and don't even check their mail then. In those cases, you can take the deposit from the last day of actual business as the last cash receipts for the business year. It is not a good idea to use this as a tax planning device, and do not be overly aggressive.

What about payments? You are not responsible for the business schedule of those to whom you owe money. Even if the check date is within the last few days of the year, and if the payee can pick up the check, or if you can get it in the mail with a postmark so that there is a reasonable chance that the vendor can receive it by the end of the year, that will count as a deduction. For payments by credit card, the bill from the credit card company will give the date, and you will get credit for any payment posted by December 31st.

More about payments. The calendar this year has December 31 on a Saturday, and thus December 30 on a Friday. Keep that in mind when you are making payments. It will not be a good idea to expect to date checks December 31st and have a reasonable expectation of being able to

deduct them. Instead use December 30th or earlier. In most cases you should choose much earlier. Starting the first week in December go ahead and write checks and mail them to vendors everyday for any invoices that you receive. If you are going to pay in December anyway, there is no benefit to waiting. And it's much nicer for tax purposes to have checks not only be dated in December, but also to clear your bank before the end of the month.

Special care for payroll checks. If you use **paper checks**, instead of direct deposit, you must have paychecks available for your employees to pick up prior to the end of the last business day, in order to qualify for the current year. That's even if not all of the employees actually pick up their checks, and even if there is not time for them to deposit the checks into their personal bank accounts instead of going to a check-cashing store.

Direct Deposit of Paychecks is going to be especially tricky this year, so be careful. Almost all payroll services and direct deposit methods have at least a one-day lag time. That is, they take the money out of your account the day before the actual payroll day, and they put it into employee bank accounts on the next day. And they normally date the payroll as of the day that the money goes into the employee bank accounts. Thus, if you would normally have a payroll date of December 31st, they would withdraw the money from your account on December 30th, and deposit into employee accounts on December 31st, and date the paychecks on December 31st. But this year, December 31st will be a Saturday, so the deposit to the employees cannot be made until January 3rd. Thus your payroll taxes, Forms W-2, and nothing else will match to the right year. It can be a terrible mess. To avoid trouble, move your payroll check date to December 30th or earlier. This is very important.

End of Year Purchases of Inventory. If you purchase inventory (items for resale), it is not deductible until you sell those items. Some people try to arrange a large purchase of merchandise for resale, mistakenly thinking that will help them reduce taxes, but it doesn't work. And no, for inventory it doesn't matter whether you are on the cash basis or accrual basis.

End of Year Purchases of Equipment. If you purchase equipment, computers, furniture, or any other tangible depreciable property, you should keep in mind the "placed in service" rule. Because of a desire to get the economy moving, Congress has allowed accelerated depreciation, meaning that you can probably take a deduction for the full amount of such purchases. However, you cannot deduct depreciable property that you get at the last minute and leave sealed in the box.

End of Year Purchases of Cars and Trucks. In most cases vehicles that can be used for both personal use and business use have to be prorated between the two and the amount of depreciation that can be taken is reduced, even if you get them placed in service by the end of the year. However, there are fewer depreciation limitations for large vehicles (defined as weighing more than 6,000 pounds).

Financing. The IRS does not generally concern itself with how you pay for end of year purchases. If you get a bank loan or personal loan to write checks by the end of the year, that's okay. Or if you pay by credit card but don't pay back the credit card company until next year, that's fine. Or if you buy a vehicle but only put up a minimal down payment, that works too. The full cost of the purchase can still be accounted for in the year the vehicle is placed in service.

Mileage Logs:

It is terribly inconvenient to keep track of mileage. However, since a vehicle can be used for personal trips as well as for business purposes, and frequently is, the IRS requires substantiation. The only solution is to keep a mileage log. Fortunately, there are now applications that you can

download onto your phone or computer. I also have a MS-Excel spreadsheet that I can send you for free (just let me know if you want it).

There are two different ways to compute the cost of business driving, **actual cost or cents per mile**. Some people mistakenly think that you only have to keep a log if they use the cents per mile method. But even if you use the actual cost method, you must have some method of apportioning between business use and personal use, and the only reasonable way to do that is by the miles driven.

Commuting. Everybody has to get to work somehow. Commuting from your home to your job is not deductible for anybody. For business travel that goes for the first trip of the day from your home to your first work location and from the last work location back to your home at the end of the day. Count those two trips as personal and all other driving as either business or personal depending upon the circumstances.

Records. Your mileage log can be in any format, but at a minimum, it should have the date, the number of miles, and a short description of the business purpose of the trip. Your tax return will have check boxes that ask: (1) do you have records to substantiate your deductible mileage? and (2) are those records written? Of course, you have to tell the truth, and besides penalties against you for not having adequate records, any disallowed deductions can cause preparer penalties as well.

Income. If your Company owns the vehicle (either lease or purchase), instead of you personally, your Company must add your personal use to your Form W-2 every year to show the amount of income that is taxable to you for such personal use. Because of county or local personal property taxes and the increased cost of insurance, it is generally better to own or lease the vehicle in your own personal name, instead of having it titled in the Company name.

Business Meals:

In-Town Meals are deductible if you have a reasonable expectation that the customer or prospect who you are treating will generate some income for your Company. The documentation required is the date, location, amount, who was there, and the business purpose. If you just go to eat by yourself without a customer or prospect, it's not deductible, only personal, because you could just feed yourself at home for free (sort of).

Out-of-Town Meals in connection with a trip that includes at least one night away from home are deductible, even if you do not eat with a customer or prospect, because you could not just feed yourself at home for free (sort of). The documentation the IRS requires is basically the same, date, location, amount, and business purpose. You may also be able to deduct out of town meals on a per diem basis, but the documentation is similar and your tax preparer can compute that for you.

Meals with Business Partners or Employees are not generally deductible.

The food costs of a **Company Meeting** for training or safety or marketing strategy or any legitimate business reason are deductible (usually 100%).

The food costs of a **Company Party** are generally deductible. If you have an annual Christmas Party or a Company Picnic, that's fine (usually 100% deductible). Be careful not to try to deduct more than one or two such parties per year.

The **Amount of the Deduction for Food** is normally reduced to 50% of your actual costs for most meals. How much you spend is not very important, so you can be as lavish (within reason) or as frugal as you want, but the documentation is very important and is roughly the same for all types of deductible meals.

Entertainment:

Typical types of deductible entertainment expenditures are games (sports), hunting, fishing, theatre, social clubs, nightclubs, and concerts.

Club dues are not deductible. You cannot deduct dues paid to country clubs, athletic clubs, airline clubs, hotel clubs, or luncheon clubs.

Requirements for Deducting Entertainment Expenses. The event must be directly associated with the active conduct of your business (i.e., the production of revenue). You must actively engage in a meeting, discussion, or other business transaction during the entertainment event or immediately prior to or immediately after the event. You must have something more than a general expectation of receiving income or some other specific business benefit in the future.

The **Substantiation Requirements** are similar to those for meals, date, amount paid, who attended, and business purpose. Deductions for entertainment expenses are also limited to 50% of your actual costs.

Fixed Assets and Depreciation Schedules:

A **Useful Life of More Than a Year** is the test for whether an asset, instead of being expensed, should be put on your Balance Sheet and depreciated over 5 or 7 years or some other number of years. However, simple office equipment like tape dispensers or staplers have a useful life of many years. It would be ridiculous to depreciate office supplies, so most people use a standard cost level (the most common is \$500) to decide what to depreciate versus what to count as an expense.

Therefore, pull up your Profit & Loss (Income Statement) report for this year to date, click on your supplies accounts and see if you have anything costing \$500 or more. If so, move those items to your Balance Sheet fixed asset accounts.

In an effort to encourage the purchase of equipment to stimulate the economy, Congress has allowed the option of deducting the whole value you spend on most such items in the first year. So, even though you cannot take a deduction for those things you moved out of expense accounts, you still can deduct them in a different manner, which amounts to about the same thing.

For used equipment you purchased, the first-year deduction method is not available. And for leasehold improvements, you will be stuck with 39-year depreciation. Anything that is attached to leased real estate fits under that definition (e.g., finish-out costs, paint, and carpet). Your lease may be only three years, but you still have to use a 39-year schedule, though when you move out, you can write off whatever is left.

Inventory:

If you have items you sell at retail or wholesale, you probably will not have bare shelves at the end of the year, so you have to count your inventory. I recommend that you make a list of all your items and their unit cost. Then just count the number you have in stock and multiply. I have a MS-Excel spreadsheet you can use (just let me know if you want a copy).

Please note that you use the cost, not the selling price. That is, you want to know how much cost you have in each item, not the amount you expect to get when you sell each one. Ignore financing, even if you have not yet paid your vendor for an item. You will pay eventually, and for these purposes, count everything you actually have in your possession.

Try to get this done either after the last day of business in the current year, or before you open for business on the first day of next year. If it takes a day or so before you get around to it in the new year, you should adjust for items you had on hand but have sold before you got to your count. The longer after the opening of the new year, the more adjustments you will have to make, so try to be as timely as you can.

Besides resale items, you should also count your supplies. Everybody has some supplies on hand at the end of the year, even people who are in a service business and who do not have regular resale products. Do the calculation the same way: item description, number on hand, cost, and multiply the number and the cost per item.

Some people dislike taking inventory, a dusty warehouse, during the cold of winter, takes a long time, is boring, etc. Admittedly, those are valid feelings. But you can enlist the aid of all your employees and all your family members, and many hands will make light work. Go ahead and get this job scheduled.

Expense Reimbursements:

If you paid for some business expenses, using your own personal cash or your own personal credit card, any time during the year, but have not yet been reimbursed, try to get that done before the end of the year. Just make up a voucher, listing the expenses you paid for personally, staple the receipts to the voucher, and turn the voucher in to your bookkeeping department. Then have your Company write a check to you, for deposit into your personal account, and try to get it deposited before the end of the year.

The result will be that the payment to you will not be income and thus will not affect your personal taxes (it's just a reimbursement). But it will be a deduction to your Company, because it is a payment for ordinary or necessary business expenses.

If you have any employees who are in a similar category, get them to also finish their vouchers before the end of the year.

Pension and Profit Sharing – Qualified Plans:

For **401(k) Plans**, you must make contributions prior to the end of the year. And those have to come out of payroll withholding. If you have not maxed out your personal contribution and if your cash position is strong, you can pay yourself a bonus and contribute most of it to your 401(k) account.

For **SEP Plans** there is not as much of a hurry. You can make contributions next year that count toward the current year.

Caution: Company Plans normally are set up with the Company President as the Trustee. The promoter serves as the third party administrator or the investment broker or both. That leaves you vulnerable, because the Trustee is responsible for filing the tax return (usually Form 5500) with the IRS and the Department of Labor. The sales person tells you not to worry about it, because they will take care of that for you. If you fire your prior third party administrator or investment broker, they frequently don't prepare the filing for you to sign, you won't know about it, and you will get a nasty letter from the government containing large (multi-thousand dollar) penalties. Since you are the Trustee, you have to pay. Be especially careful of this potential problem.

Loans From or To Related Parties:

Sometimes to get along, you have to get a loan. The Company may need funds, and you may lend some of your personal money to your Company. This is perfectly legitimate, but make sure there is a written promissory note, with some reasonable interest rate, and some reasonable payment schedule.

It can go in the other direction. You may need money and borrow from your Company. This is trickier, because you have to decide if you are paying yourself payroll, or paying yourself distributions or dividends, or having the Company lend money to you. If it's a loan, make sure there is a written promissory note, with some reasonable interest rate, and some reasonable payment schedule.

Reasonable Compensation:

C-Corporations. If you pay yourself too much payroll, the IRS may claim that part of the payments should have been dividends. If the auditor reclassifies, it will lead to double taxation.

S-Corporations. If you pay yourself too little payroll, the IRS may claim that part of the other payments to yourself should not have been classified as shareholder distributions. If the IRS auditor reclassifies part or all of these distributions as payroll, it will lead to additional Social Security and Medicare payroll taxes and substantial penalties. If you have paid yourself less payroll than the amount you have taken in draws or distributions, you should rectify this with bonuses before the end of the year.

Partnerships, Proprietorships, and Single-Member LLCs. You are not allowed to pay yourself payroll. Instead you are only allowed to take draws or distributions or guaranteed payments that are not subject to withholding, so you may be short on April 15th without enough paid in.

Reasonableness of compensation is tricky, so you may need to get some professional help on this prior to the end of the year.

Bookkeeping Tricks and Traps:

Balance Sheet. On your computer, pull up your year-to-date Balance Sheet, go to <Modify Reports>, and change from Accrual to Cash. Some of your accounts should be zero. If you have any amount in Accounts Receivable, Undeposited Funds, Accounts Payable, Payroll Liabilities, or Payroll Tax Liabilities, then you have errors that have crept in during the year. These are probably just coding mistakes, so go ahead and fix them now rather than waiting until the end of the year. Get a head start on this.

Check Each Account. Start with your year-to-date Balance Sheet and then go to your year to date Profit and Loss report (Income Statement). Click on each account, one at a time, and look for obvious miscoding. As an example, if you click on telephone expense and see twelve checks to AT&T or some other telephone company and one check to your landlord, then go ahead and recode the check that is obviously for rent expense. This may sound like a bigger job than it really is. It won't take you much time to click on each account, look at the transactions and move to the next one. And you will be glad you did.

Payroll and Payroll Taxes. You have three quarters of payroll tax returns by now. Put together a spreadsheet (I have one that I can send you, if you want), and record each line of payroll,

federal withholding tax, Social Security tax, Medicare tax, and state unemployment. Total those three quarters and compare to your year-to-date totals. If there is a discrepancy, find it, and fix it.

Keep Special Notes on Some Transactions. There are some items you buy that are ordinary or necessary business expenses, but you may buy them at a store that has mostly regular consumer merchandise. In those cases, make sure that you use the memo field in your computer bookkeeping program to designate specifically what the item is. As an example, if you buy copier paper at Office Depot, you don't have to do much, but if you buy copier paper at Sam's Club, you should note that carefully. Otherwise an IRS auditor is not going to know that you didn't make that Sam's Club expenditure for bread and wine, which would not be deductible.

Don't Cash Checks for Your Employees (or anybody else). It makes a terrible mess of your bookkeeping. Sure, you have a cash register, and it's easy to cash checks, but you are not a bank. Make them go to a check-cashing service.

Don't Make Cash Payments. These days there is no need to have a petty cash fund, or worse, to pay any cash out of your cash register. Use a Company credit card, or let an employee (or yourself) pay with personal funds and then get reimbursed by presenting a voucher and getting a Company check.

Clear Out Voided Checks. Look at your bank reconciliation to see what checks are old. If you wrote a check several months ago, and it has not yet cleared your bank, it probably never will. So go ahead and void it. If it clears in the future, you can put it back into your check register. Use your own judgment as to whether or not a check will ever clear. Feel free to call the person or company to whom you sent the check. However, be wary of Payroll Checks, because voiding one of those will have an effect on your Payroll Tax Returns.

Bank Statements and Credit Card Statements:

End of Month Cut-Offs. Your bank statements should have an ending date that coincides with the end of the month. Check each bank account to make sure, and if there is a different monthly closing date, call the bank to change it. The same thing is true with credit cards. Until recently I didn't know that you could get end of month credit card statements, but you can. None of your credit card accounts probably have this, so go ahead and call to get this changed. Your life will be much easier with end of month cut-offs.

Reduce the Number of Accounts You Have. Many businesses have more than one checking account. There is almost no good reason for that. A separate savings account is unnecessary, because the amount of interest you earn is tiny nowadays. Consolidate down to one checking account before the end of the year. The same is true with credit card accounts. You may have more than one business credit card, and you originally had a good reason for using each of them. But consolidate as much as you can. Business is complex, so simplifying your life is worthwhile.

Get the Checks Back. Banks formerly sent back the checks and deposit slips with each bank statement, but no more. However, they do offer copies, either paper or online. Sign up for that feature, because (sooner or later) you will need to look at the actual document.

Employee versus Independent Contractor:

One of the biggest errors employers can make is misclassification of workers. Simply put, if workers look like they can possibly be construed to be employees, the IRS will try to take

that position. If you disagree, too bad for you, tough, lump it. They will assess you anyway. You can contest or appeal their assessment, but that is neither an easy nor a cheap procedure. State agencies are not usually so aggressive, but if they have occasion to reclassify your employees, they will tattle to the IRS, which will come knocking on your door in short order. The taxing agencies feel that every working person in the United States should get a Form W-2, instead of a Form 1099. And they have been on a determined program for more than a decade to try to accomplish that.

What does the term “Contract Labor” mean? It is roughly equivalent to “independent contractor.” I dislike the term “contract labor,” because of the labor part of it. When you hire an employee, in effect, you are, buying his or her labor. Labor is what employees do, and the last thing you want to do is inadvertently imply the person is an employee. Additionally, there is rarely a real contract. Or if there is a contract, it’s usually inadequate. I prefer the term “independent contractor” to describe anybody who is doing work for a company, but not as an employee.

How do you know if a person can be legitimately classified as an independent contractor? The key issue is control over the worker. If you exercise significant control, the worker looks more like an employee than an independent contractor. You may have heard of the “20 Questions Test,” but I recommend that you only take it as a set of guidelines. This is a set of questions used by the IRS (on Form SS-8) to analyze how many characteristics of an employee versus how many characteristics of an independent contractor your workers exhibit. (It now has many more than the original 20 questions from when the form first came out, but they still call it that.) The test is based on common law precedents. Some business owners mistakenly think that if you pass more than half of the questions, you can get by. Don’t believe it. I have seen aggressive IRS agents reclassify using just a few of the questions. (Incidentally, if you ever get a Form SS-8 in the mail from the IRS, with instructions to fill it out for one or more of your workers, it’s not a good sign.)

What if you look at the IRS list, but you’re still not sure? There are only three safe havens I know of. First, it’s good if the worker performs the same types of services, on a regular basis, for customers other than you. It helps if that worker has a business listing in the Yellow Pages, a website, or otherwise advertises such services. Second, you will be even safer if the worker’s business is incorporated (a single-member LLC is not adequate). Third, if the worker is a licensed insurance agent, or a licensed real estate agent, there are special provisions.

Why is this classification thing so important? The costs are so high that any problem can put you out of business. If you are hit with a reclassification, you will be subject to at least 15% of the total payments you’ve made to the reclassified workers for the last three years. On top of that is the possibility of penalties and interest that amount to another 15% or more. Payment to workers is usually the biggest expense of most businesses. So, if you have to go back and pay 30% or more of what you paid to contract labor workers in previous years, it can easily be enough to sink your business. Just doing a rough calculation of the numbers can be a scary experience.

So, if you get a large assessment, might you have to file bankruptcy for your business? It’s quite a bit worse than that. Payroll taxes enjoy a special category in the law, allowing the IRS special standing, such that payroll taxes are not dischargeable in bankruptcy. Worse than that, anybody in the business who had any responsibility for payroll can be charged personally, jointly and severally. That means that officers, directors, and owners can be held personally responsible to pay up. Not only that, anybody who was on the signature card for the business bank account can be personally liable.

If a disgruntled worker complains, or if the IRS finds out about you for any other reason, you will need a good lawyer. A good attorney can help you contest or appeal any

reclassification attempt, and you will have a better hope of success than if you try to handle the problem by yourself. But, of course, a good lawyer is expensive.

I strongly recommend that you take protective measures now and be extremely careful with worker classification. It's worth the cost of getting a professional opinion if you are at all unsure. It will be considerably cheaper to switch questionable workers to employee status and to start withholding payroll taxes on them now, than it will be to go through the trauma of a reclassification case later. I am not recommending that you be over cautious, but I am telling you to go into this with your eyes wide open and to get professional help if you have any notion that you might have a problem.

Tax Notices:

If you get a notice from the IRS, or state agency, or other taxing agency, send a copy to your preparer, particularly if it relates to a discrepancy with a prior filing. Even if you know what it is, and how to deal with it, send a copy to your preparer anyway, because he or she needs to know. I had a client in my office just this morning who told me that several weeks ago she got a notice, and it was only a charge for about \$2.00 in interest, so she went ahead and wrote a check and sent it in. I asked for a copy so that I could at least have something in the file in case something else arises on that issue.

Payroll Tax Notices. About a month ago, the IRS sent a letter to every employer with the computation of payroll taxes for the prior four quarters. The purpose of this letter was to notify you of how many days after each payroll before your payroll tax deposits have to be in, during the next year. This changes every year, depending upon the amount of your prior payroll taxes. Not only should you send a copy to your tax preparer, but you should also send it to your payroll service. Also, annually, at about this time of year, the state unemployment commission sends a letter to all employers with the new rates for the upcoming year. These rates are based on whether or not you had any unemployment claims and how much the state had to pay out for all the employers in the state. These rates change every year for everybody. Again, send a copy to your tax preparer and your payroll service.

Insurance:

Liability Insurance. If you rent office space, your landlord will probably require that you have insurance to cover accidents. Most business owners also have casualty and theft insurance as part of that package. Before the end of the year is a good time to check to see if your coverage is adequate and up to date.

Additional Insurance. Two insurance riders you should have are Unowned Autos and Umbrella. If you send an employee to a store to buy office supplies and he or she has a wreck while engaged in an errand for your Company, then your Company is liable. It is normally very cheap to get a rider to cover that situation, and you should call your agent to make sure you have it, or check your policy. Also, insurance companies will write a rider, called an Umbrella, that covers pretty much everything not covered by your other liability insurance. This is also very inexpensive, and you should definitely have it.

Worker's Compensation Insurance. If a worker gets injured on the job, it's a big problem for you. In Texas (and some other states) a business can opt out of coverage, but the requirements

are onerous, including providing medical insurance for all employees and arduous filing requirements. Just doing nothing is not the same as opting out.

QuickBooks:

Update. It is time to buy the new 2012 version of QuickBooks update. If you haven't gotten it yet, stop dawdling. If you have it but have not yet installed it, go ahead and do that now. You will want to be ready to go on January 1st.

There are three product options, "*Basic*," "*Pro*," and "*Premier*." QB-Basic is too light for business applications. QB-Premier is more than you need, unless you are using QB-Payroll (and I strongly recommend that you get an outside payroll service instead—if you let me know, I will send you the eBook I did about Payroll and Payroll Tax, for free, which will explain). Therefore, almost everybody should be upgrading to the 2012 version of the middle option, QB-Pro.

You can buy an upgrade at an office supply store or online. If you purchase online, make sure you get the physical CD sent to you in case you have to reinstall. If you know a person who is a QuickBooks Pro Advisor, he or she can get you an update at a small discount and free shipping. If you don't have a QB Pro Advisor available, just contact me and I will get that done for you (again free—I feel strongly about this).

Don't think your old version of QuickBooks is good enough to last for one more year. Go ahead and update now.

New Deal with the IRS and QuickBooks. Every business owner who has gotten an audit notice from the IRS in the last couple of months, has been ordered to turn over the business QB files in an electronic format. That has caused a lot of complaints, but the IRS has refused to back down.

In the past, the IRS has asked for print-outs, but has never had the computer capability or trained agents who could do anything meaningful with QB. And still most IRS field agents know very little about QB files. But the IRS Audit division is sending the files to a central computer geek headquarters somewhere, and they will be analyzing the QB files and sending reports back to the field agents.

The big problem many have pointed out is that the IRS normally audits only one year at a time, whereas your QB file has all the transactions up to the present day as well as all the transactions back many years in the past. Do you really want the IRS to be able to go on fishing expeditions that open up all those years?

The solution many people have been recommending is to start a new file (call it a new company) as of January 1, 2012, and again at the beginning of every year thereafter. That way, in the future you will be able to give the IRS the file of only the year they are auditing. Don't worry, because you will still have those prior years on your hard drive, so you can look up any old stuff that you want. And you will be able to transfer your chart of accounts, items, lists, employees, vendors, and all the other things you need to the new file for the new year, so you won't have to recreate all that. One positive aspect of this method is that your QB will run much faster.

I have heard a rumor that there are now third-party software programs that can take a QB file and strip it of all but one year. Additionally, there is information related to a new feature in QB called "brackets" that may also take care of this. Unfortunately, this is so new that I have not actually tried these software methods, so I can't tell you how well (or if) they work.

Your Personal Income Taxes:

Do you have enough taxes paid in for 2011? There is still enough time left this year, to make any catch-up payments if you have gotten behind.

The way this works is that the IRS expects everybody to have enough paid from the prior year so that they owe nothing on April 15th. This is generally accomplished through the withholding system—you know every pay period your employer withholds taxes from your paycheck. That works fine; and the majority of Americans have enough withheld that they get a refund in the spring.

However, people who have no withholding (or not enough) are supposed to make four quarterly estimated payments. The main reason people do not have enough paid in is that they have income that is not subject to withholding—maybe rent, business ownership, royalties, oil and gas, interest, dividends, capital asset sales, etc.

Here's the problem: If you owe money on April 15th, the IRS figures you should have made estimated payments, and they charge you interest and penalty for failing to do so. And we are already past the dates of 3 of the 4 required 2011 estimated payments.

Naturally, it is hard to estimate annual income taxes a whole year before they are due, because nobody knows for sure what their income and deductions are going to be. So the IRS allows people to avoid penalties if they pay in 110% of their prior year taxes. To find your own special, unique amount, take your 2010 Form 1040, look on line 60, and multiply by 1.10 (which is what the IRS calls a "safe harbor" multiple).

If, by the end of this year, you have paid in that amount (110% of line 60) or more in withholding or estimated payments, you will probably be in fine shape. This may have nothing to do with the amount of tax you will have on your return next April. It is only a preventative measure to give you enough paid in to prevent any problems that may give rise to penalties.

Remember, when you are looking at your pay stubs, this is just federal income tax withholding, not your Social Security (FICA) or Medicare withholding. So look at the information from your last paycheck for total income tax withholding, and add up any estimated payments you have made, to see if you are going to be okay. If not, feel free to call me, and I will help you with some techniques you can use to avoid any problems.

Legal Matters:

If you have not yet done so this year, there are some things you need to take care of before December 31st:

1. Corps—Shareholder meeting to elect Directors; LLCs—Member meeting to elect Managers.
2. Corps—Director meeting to elect Officers.
3. Meeting minutes.
4. Documents needed based on activities during the year (e.g., Promissory Notes).

Final Words:

There is a lot contained in this checklist. Admittedly, it's burdensome to read all this, much less to actually do, all these things. But if you do a good job, it will redound to your benefit, and will save you from many potential problems, maybe even some heartache. If you have any questions, just let me know.