

l address of the financial institution in which the nt number. For stock or security, the individual address, and any other information needed to r any other instrument, contract, or interest, the n needed to identify the asset, and the names and ties.

i the required information at the time and in the 000 penalty. If the failure continues for more than of the failure to the individual, the individual is lty for each 30-day period (or a fraction thereof) r the 90-day period; this additional penalty cannot essing these penalties, the total value of the presumed to exceed \$50,000 (or a higher dollar individual does not provide sufficient information to

if the failure is due to reasonable cause and not t a foreign jurisdiction would impose a civil or ired information is not reasonable cause.

in regulations or other guidance, these provisions ed or used to directly or indirectly hold specified

ncy-related penalty may be imposed for tax un- sclosed foreign financial asset understatement assessments is extended to six years if there is an \$5,000 attributable to a specified foreign financial t to the reporting requirements discussed above). is suspended for failure to timely provide informa- ncial asset.

umber. Persons filing returns and other docu- apayer identification number (TIN). Individuals Forms 1040, 1040A, and 1040EZ. Executors of 1706 are to use both their social security number. For corporations, partnerships, estates and ayers, the identifying number is the employer

an apply for an adoption taxpayer identification the process of being adopted (Reg. §301.6109-3). on Form W-7A.

urns (§2565) may request the recipient of any W-9.

obtain a TIN may use an IRS-issued individual W-7 is used to apply for an ITIN. The Form W-7 , completed income tax return, and documents on Form W-7. Issuance of ITINs to deceased : made by the IRS, and applications for deceased ase-by-case basis (IRS Chief Counsel Advice

es to a taxpayer who omits his own TIN from a nt. Failure to furnish one's TIN to another person r person's TIN in any document for information e to a \$50 penalty. The maximum penalty per s is \$100,000 (Code Secs. 6723 and 6724(d)(3)).<sup>86</sup>

s; Tax Research Consultant; and Practical Tax Explanations.

## Chapter 26

### WITHHOLDING ☐ ESTIMATED TAX

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#### Withholding on Wages

**2601. Withholding of Income Tax on Wages.** Withholding of income tax by an employer is required on each of an employee's wage payments. Generally, the term "wages" includes all remuneration (other than fees paid to a public official) for services performed by an employee for an employer, including the cash value of all remuneration (including benefits) paid in any medium other than cash (Code Sec. 3401(a); Reg. §31.3401(a)-1(a)(2)).<sup>1</sup> Salaries, fees, bonuses, commissions on sales or on insurance premiums, taxable fringe benefits, pensions, and retirement pay (unless taxed as an annuity) are, if paid as compensation for services, subject to withholding.

The term "employer" includes not only individuals and organizations engaged in trade or business, but also organizations exempt from income, Social Security, and unemployment taxes (Reg. §31.3401(d)-1).<sup>2</sup> Withholding also applies to wages and salaries of employees, corporate officers, and elected officials of federal, state, and local government units (Code Sec. 3401(c)).<sup>3</sup>

The term "employee" must be distinguished from an "independent contractor" for purposes of employment tax obligations. An employer does not generally have to withhold taxes on payments to independent contractors. In addition to the common law definition that focuses on the control that is exercised over what work is done and how it is done, the IRS has identified a 20-factor test to assist in making this determination. The factors are:

- (1) employee compliance with instructions required,
- (2) training,
- (3) integration of worker's services into the business,
- (4) services are rendered personally,
- (5) ability to hire, supervise and pay assistants,

References are to Standard Federal Tax Reports; Tax Research Consultant; and Practical Tax Explanations.

<sup>1</sup> ¶ 33,502, ¶ 33,503; PAY-ROLL: 3,150; § 22,110.05

<sup>2</sup> ¶ 33,537; PAYROLL: 3,050; § 22,105.15

<sup>3</sup> ¶ 33,502; PAYROLL: 3,100; § 22,105.20