Compliance Considerations for New Business Owners

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What is Compliance?

- Compliance - efforts to ensure that companies are aware of and take steps to comply with relevant laws and regulations.

Examples of Compliance

- Common Business Filings
  - Annual Business Tax Return (1120S, 1065)
  - Quarterly & Annual Payroll Tax Returns (941, 940, W-2)
  - Quarterly Sales Tax Filings
  - Annual information returns (1099)
  - Other Information Reports (state agencies)
Understanding Compliance Regulations - Annual Business Return

- Depending on choice of structure and number of owners, there may be the requirement to file a separate business return.
- Application for EIN online- confirms return type and deadline
- Will be due on either March 15th or April 15th of the following year, depending on structure
  - Multi-Member LLCs (treated as a partnership) - March 15th
  - C Corporations - April 15th
  - S Corporations - March 15th
  - Single Member LLCs - April 15th
- The information is reported directly on personal return - no separate return required.
Payroll tax returns are due quarterly
- 1 month after the end of the quarter

Most common forms to be filed are Form 941 (Federal) and NYS-45 (NYS).
- These will report wages, taxes withheld, SS & Medicare taxes and any State unemployment insurance.

Due date for withholding can vary greatly depending on number of employees, size of payroll and frequency of payroll.

Annual forms (W-2) due to employees 1 month after year end, and due to agencies 1 month afterwards

Strong consideration should be given to outsourcing (i.e. ADP or Paychex) payroll processing

Payroll tax is a “trust fund” tax - potential personal liability
Understanding Compliance Regulations - Sales Tax

- Sales tax should be charged generally only on sales of tangible personal property (goods) and certain services as described in the state law.
  - Taxability of services and certain goods can vary from state to state and county to county.
  - Generally, only have to charge sales tax for sales in states where you have NEXUS, a physical connection to that state
- Sales tax returns are initially due quarterly, but can be done annually or monthly depending on volume.
- Sales tax is a “trust fund” tax - potential personal liability
Understanding Compliance Regulations - Annual Information Information

- Certain types of payments (interest, dividends, rents, royalties, non-employee compensation) are required to be reported to regulatory agencies.

- This reporting is done via Form 1099.
  - Due to recipients 1 month after year end and the agencies 1 month after that.

- The information needed is gathered via Form W-9
  - Tip: You should get a Form W-9 from most vendors you deal with PRIOR to issuing payment

- Penalties for non-filing exist; however, generally burden is on recipient to report income
Understanding Compliance Regulations - Other Information Returns

- State agencies, such as the Secretary of State, will require either annual or bi-annual information reports detailing the owners of the business, registered agent if any and a few other facts, depending on the state.
- NY required a Bi-annual statement and $9.00 fee, and is done online.
- If doing business in multiple states, may be required to register to do business in other states and file annual business tax returns and information returns within those states.
Other Compliance Considerations - Accounting Information System Practices

- Accounting Information System (Books and Records) will be the underlying source documents and information needed with regard to compliance related activities.
- “An ounce of prevention is worth a pound of cure”
  - Starting with a complete and accurate system from the start of the business will help avoid future regulatory nightmares and issues.
    - No records for an IRS Audit
    - Financial and Human Capital Costs fixing prior mistakes
    - Reliance on poor information for business decisions
Other Compliance Considerations - Accounting Information System Practices

- Some best practices to consider for your accounting information systems
  - Get a W-9 from most vendors to make issuing 1099s simpler at year end
  - Use an accounting software package such as QuickBooks
  - Have a separate business bank account and credit card
  - Keep records related to business transactions (invoices, cancelled checks, bank statements) for 4 years
  - Keep records related to Capital Expenditures for at least 3 years after disposal
  - Keep tax returns indefinitely
  - With electronic systems, storing records even longer should not be the burden it would be with paper records.
Other Compliance Considerations - Employment Laws & Regulations

- Employee vs Independent Contractor
  - Current hot issue with Department of Labor and IRS
  - Generally depends on the degree of control and supervision of the person in question.

- Workers Compensation & Disability Insurance
  - NYS requires ALL employers to have proper Workers Compensation and Disability Policies
    - Most payroll processors now offer this service
    - Annual workers compensation audit
    - Retain COIs for all subcontractors