

November, 2004

To Our Business Clients:

We at Tonneson & Company CPAs PC believe that knowledge is your greatest asset. In that spirit, this letter provides you with basic guidelines for compliance with Federal and state rules for taxation and reporting of wages, benefits and other payments you make in the course of your business. It contains 2004 and 2005 payroll tax, unemployment wage, rate limitations, taxation of employee benefits, informational return filing requirements and related information. A copy of this letter can also be found at our newly redesigned web site, www.tonneson.com. You will find our website more useful than ever. We provide financial calculators that will allow you to make informed decisions, a tax calendar of important tax dates as well as links to the various state taxing authorities.

You should note that this letter is only designed to provide an overview of those tax rules that we believe to be of interest to our business clients. Tax rules are very complex and there are many special rules and exceptions that may apply to specific factual situations, which have not been addressed in this letter. In addition, certain rules are subject to interpretation. Please contact us to discuss how these topics may apply to your particular situation.

Official Federal forms, publications, and other information can be obtained from the IRS Web site located at www.irs.gov. Massachusetts forms and information can be obtained from the Massachusetts Department of Revenue Web site located at www.state.ma.us/dor. The Web site for the New Hampshire Department of Revenue Administration is located at www.nh.gov/revenue. Other state links are available on our website, www.tonneson.com.

The following tables highlight Retirement Plan and IRA limits, Social Security and Self-Employment Tax information, and Automobile limitations.

Table 1 – Retirement Plan and IRA limits

Description	Code Section	2005	2004
Maximum benefit for defined benefit plan	415(b)(1)(A)	\$170,000	\$165,000
Maximum contribution for defined contribution plan	415(c)(1)(A)	\$42,000	\$41,000
Maximum contribution for IRAs	219(b)(5)(A)	\$4,000	\$3,000
Catch-up contributions for age 50 or older for IRAs	219(b)(5)(B)	\$500	\$500
Exclusion for elective deferral limit	402(g)(1)	\$14,000	\$13,000
Elective deferral catch-up contributions for age 50 or older	414(v)(2)(B)(i)	\$4,000	\$3,000
Maximum annual tax sheltered annuity deferral limit	402(g)(3)	\$14,000	\$13,000
Highly compensated employee limit	414(q)	\$95,000	\$90,000
Annual compensation limit	401(a)(17)	\$210,000	\$205,000
Grandfather rule for Government plans	401(a)(17)	\$315,000	\$305,000
Minimum compensation for SEPs	408(k)(2)(C)	\$450	\$450
Compensation limit for SEPs	408(k)(3)(C)	\$210,000	\$205,000
SIMPLE plan deferral limit	408(p)(2)(A)	\$10,000	\$9,000
Catch-up contributions for age 50 or older for SIMPLE plans	414(v)(2)(b)(ii)	\$2,000	\$1,500
Deferral limits for deferred compensation plans of state and local governments and tax exempt organizations	457(b)(2)	\$14,000	\$13,000

Table 2 – Social Security and Self-Employment Tax Information

	2005	2004
Social Security Component		
Maximum Earnings	\$90,000	\$87,900
OASDI Tax Rate	6.2%	6.2%
Self-employment Tax Rate	12.4%	12.4%
Medicare Component		
Maximum Earnings	Unlimited	Unlimited
Medicare Tax Rate	1.45%	1.45%
Self-employment Tax Rate	2.9%	2.9%
Self-Employed Health Insurance Deduction	100%	100%
Earnings Ceiling for Social Security		
Before Full Retirement Age (currently 65)	\$12,000	\$11,640
After Full Retirement Age (currently 65)	Unlimited	Unlimited



Table 3 – Automobile Limitations

	2005	2004
Automobile Standard Mileage Allowances		
Business	40.5¢	37.5¢
Charity	15¢	14¢
Medical/Moving	14¢	14¢
Luxury (Non-electric) Auto Depreciation Limits		
First Year – No Bonus Depreciation	**	\$3,060
First Year – Bonus Depreciation	**	\$10,710
Second Year	**	\$4,900
Third Year	**	\$2,950
Fourth Year and Thereafter	**	\$1,775

** - At the time of publication of this tax letter, the IRS had not updated the Luxury Auto rules for 2005. Please call us if you have questions.

Congress recently passed the American Jobs Creation of 2004 (Jobs Act of 2004), which includes an amendment to limit the property expensing deduction for luxury sport utility vehicles (SUV's) placed in service after October 22, 2004 to \$25,000. Before this amendment, the purchase price of your SUV was deductible in full as part of your \$100,000 depreciation expensing deduction, to the extent that this deduction was not used for other asset purchases.

The following is a listing of vehicles with gross vehicle weight ratings (GVWRs) of more than 6,000 pounds. They do not constitute a passenger vehicle for purposes of being limited to the luxury automobile depreciation limits. This listing is not exhaustive and should be used as a general guide. We advise that you examine the manufacturer's sticker for any vehicle's exact GVWR.



Table 4 – Qualifying Vehicles with a GVWR in Excess of 6,000 Pounds

BMW

X-5 SUV

Cadillac

Escalade EXT

Escalade SUV

Chevrolet

Astro Passenger Van AWD

Avalanche Pickup 1500, 2500

Express Van 1500, 2500, 3500

Silverado Pickup 1500, 2500, 3500

SSR

Suburban 1500/2500

Tahoe

TrailBlazer EXT LT

Sierra 1500, 2500, 3500 Pickup

Sierra Denali

Land Rover

Discovery Series II

Range Rover

Isuzu

Ascender

Lexus

GX470

LX470

Lincoln

Aviator

Blackwood Pickup

Navigator

Dodge

Durango

Dakota

Ram Wagon

Ram 1500, 2500,3500

Sprinter Van, Wagon

Ford

Econoline (E450, E250, and E350) Van

Econoline Wagon

Excursion

Expedition

F150, 250, 350 Super Duty

GMC

Envoy XL

Hummer H1, H2

Yukon

Safari Passenger Van AWD

Savana

Mercedes

G55, G500

ML320, ML350, ML500, ML55 AMG

Mitsubishi

Montero

Nissan

Pathfinder Armada

Porsche

Cayenne

Toyota

Land Cruiser

Sequoia

Tundra Pickup (V-8 models only)

Volkswagen

Touareg

Volvo

XC90



PERSONAL USE OF COMPANY OWNED/LEASED VEHICLES

Whether your company supplies business auto to employees as “perks” or as necessary tools to help them get their work done, their personal use of the auto has tax implications for them and for you. That’s because an employee’s personal use of a company auto generally must be treated as non-cash fringe benefit that is also subject to social security taxes. Fortunately, the tax rules give you some flexibility in valuing personal usage of company car. You can choose from among four valuation methods:

- The general fair market value method, which is based on what a person would pay locally to lease a comparable auto for a period of time comparable to the period of time the employee has use of the car;
- The lease value method, which assigns an IRS-determined annual lease value to the auto depending on its value when first provided for the employee’s personal use;
- The mileage rate method, which values each personal-use mile at the standard business mileage rate designated by the IRS for the year (40.5¢ for 2005 and 37.5¢ for 2004); or
- The \$1.50 per one-way commute method.

The first two methods can be used for any auto and any employee. The mileage-rate method can be used only if the car’s fair market value doesn’t exceed an annually adjusted figure (the amount for 2005 has not yet been updated by the IRS, \$14,800 for 2004), and is regularly used in your business, or is driven at least 10,000 miles during the year and used primarily by employees. The \$1.50 commute method applies only to an auto used in your company’s business, and only if the employee isn’t highly paid, a company officer or director, or a more than 1% company owner.

Which of the first three methods results in the lowest personal use valuation and the lowest tax bill for employees? The answer will depend on factors such as the number of annual personal miles, value of the car, and the ratio of personal miles to total miles. We suggest that you use the Employee Representation Regarding Use of Company Vehicle Report (Exhibit B). We have also enclosed the Annual Lease Value Table (Exhibit A) and worksheets (Exhibits C & D) to calculate the personal use of a company vehicle. We can help you through the maze of these rules, and also show you which of them will cause the least amount of paperwork. Please do not hesitate to call us for an evaluation.



ELECTRONIC FEDERAL TAX PAYMENT SYSTEM (EFTPS)

You must make electronic deposits of all depository taxes using the Electronic Federal Tax Payment System (EFTPS) in 2005 if either your total tax deposits in 2003 were more than \$200,000 or you were required to use the EFTPS in 2004. Depository taxes include employment taxes, excise taxes, and corporation income taxes.

Businesses may voluntarily choose to use EFTPS when not required under the threshold discussed above. However, penalties will apply to businesses that fail to use EFTPS when required. Please note that the separate late deposit penalty continues to apply regardless of the method used to make deposits.

EFTPS replaces using Form 8109, *Federal Tax Deposit Coupon* for tax deposits. Businesses that are affected should register by filing Form 9779a, *Electronic Federal Tax Payment System Business Enrollment Form*, if they have not done so already. For more information, visit www.eftps.gov or call 1-800-945-8400 or 1-800-555-4477.

FEDERAL TAX DEPOSITS ON NON-PAYROLL ITEMS

Federal income tax withheld on non-payroll items must be deposited separately from taxes withheld on payroll. The rules for when to deposit the non-payroll taxes are the same as for payroll taxes, with one exception.

The look-back period for non-payroll taxes withheld by a taxpayer is the second calendar year preceding the current calendar year. For example, the look-back period for calendar year 2005 is calendar year 2003. If the total tax reported on Form 945 was more than \$50,000, you are on a semi-weekly deposit schedule. If the total tax reported was \$50,000 or less, you are on a monthly deposit schedule. A monthly depositor will be required to switch to a semi-weekly schedule if the accumulated liability reaches \$100,000 or more on any day during a calendar month.

The withholding must be reported to the Internal Revenue Service on Form 945, *Annual Return of Withheld Federal Income Tax*, and not on Form 941, *Employer's Quarterly Federal Tax Return*. The 2004 return is due January 31, 2005. If all 2004 deposits were timely and 2004 taxes are paid in full, the deadline for filing a timely return is February 10, 2005.

Deposits may be required under EFTPS under rules previously stated.

Non-payroll items affected include pension distributions, annuities, IRA's, other deferred income, backup withholding and other withholding reported on Form 1099.



FEDERAL BACKUP WITHHOLDING

Payers must generally withhold Federal income taxes from payments of interest, dividends, rents, commissions, royalty payments, and certain other non-wage payments for any payee who gives the payer an incorrect taxpayer identification number or social security number, or no number. Form W-9, *Request for Taxpayer Identification Number and Certification* can be used by a payer to request the number.

Backup withholding is also required on any payee you have been notified by the IRS is subject to backup withholding. Notification will typically be received via a CP2100 or CP2100a notice, also referred to as a "C" notice. The rate for backup withholding is 29% for 2004 for 2005.

YEAR END REPORTING TO THE INTERNAL REVENUE SERVICE

Employees vs. Independent Contractors - The tax form employers use to report compensation depends on whether the payee is an employee or an independent contractor. The determination of status rests on the degree of the control the party paying the compensation has over the person performing the work. As a general rule, **you have the right to control or direct only the result of the work done by an independent contractor, and not the means and method of accomplishing the result.** Under certain circumstances you can ask the IRS on Form SS-8, *Determination of Employee Work Status for Purposes of Federal Employment and Income Tax Withholding* to rule whether a worker is an independent contractor or an employee. Erroneously classifying an employee as an independent contractor can cause the employer to be liable for the employee's payroll taxes and subject the employer to significant penalties and interest. There can also be personal liability.

Reporting Compensation and Other Wage Payments Made in the Course of Business - Wages and benefits to employees are reported on Form W-2, *Wage and Tax Statement*. Form W-2 must be given to employees by January 31, 2005 and submitted to the Internal Revenue Service along with Form W-3, *Transmittal of Wage and Tax Statements* by February 28, 2005. If filed electronically (not magnetic media), the deadline is March 31, 2005. For information and online filing (limited number of forms), visit www.ssa.gov/employer or call 1-800-772-6270. Information on reporting of non-wage amounts such as personal use of a company owned vehicle and group term life insurance is discussed below.



A business paying at least \$600 during the calendar year to an individual who is an independent contractor, partnership or trust for services or rents, must report these payments to the Internal Revenue Service and to the recipient on a Form 1099. The filing of Form 1099-Misc, *Miscellaneous Income* is also required on all payments made by a trade or business in 2004 to attorneys and law firms if such payments were made for legal services. For 2004 payments, you must give the recipient a copy of Form 1099 by January 31, 2005 and file the Internal Revenue Service copy along with Form 1096 by paper or magnetic media by February 28, 2005, (by March 31, 2005 if filing electronically).

ELECTRONIC/MAGNETIC FILING

Any person who is required to file 250 or more information returns for any calendar year must file such returns electronically/magnetically. This includes corporations, partnerships, employers, estates, and trusts. The 250 or more requirement applies separately for each type of return. The information returns that must be filed electronically are Form 1042-S, Form 1098, Form 1099, Form 5498, Form 8027, Form W-2 and W-2G.

The IRS can assess up to \$50 for each incorrect or incomplete return (maximum of \$250,000 per year). However, if a taxpayer intentionally disregards their filing requirements (i.e. use of electronic or magnetic media), the penalty is increased to \$100 per incorrect or incomplete return with no maximum.

PAYROLL WITHHOLDING REQUIREMENTS

Employers may report personal use of a company vehicle as fringe benefit income on a regular pay period, or quarterly, semi-annual, or any other reasonable basis so long as it is at least annually. Employers need not use the same period or method for all employees and may change their reporting period at any time. The Internal Revenue Service does not require a formal election.

It is appropriate to use reasonable estimates on the valuation of fringe benefits for withholding and deposits. However, the actual value must be determined by January 31, 2005 for all 2004 fringe benefits.

Federal withholding on the value of the fringe benefit may be computed either with the regular wages for the elected pay period or, if treated as supplemental wages, withheld at a flat 25% for 2004 and 2005. An employer can elect not to withhold income taxes on the value of employees' personal use of company vehicles provided it tells its employees by January 31st of the year for which it elects not to withhold. The FICA OASDI and Medicare taxes associated with the value must also be withheld and matched by the employer.



The actual value of the fringe benefits must be determined in time to include the amount in the Form 941, *Employer's Quarterly Federal Tax Return* filed for the fourth quarter of the year and included in Boxes 1 and 5 (and, if under the 2004 FICA OASDI limit of \$87,900, included in Box 3) of the employee's Form W-2, *Wage and Tax Statement*. The total value of the fringe benefit must be reported and identified in Box 12 and can be further described in Box 14. To help make a timely determination an employer can elect to treat personal employee use of a company car during November and December as incurred in the following calendar year.

In order to shift the record-keeping burden from the employer to the employee, a special rule is available using the lease value rule. Instead of calculating the value of personal use of a vehicle, the employer can include 100% of the lease in the employee's wages. The employee may then calculate a business use deduction on Form 2106, *Employee Business Expenses*.

Employees using non-company owned vehicles for business purposes may also use Form 2106 to deduct the higher of (1) the mileage rate (37.5¢ per mile, multiplied by the total business mileage) plus parking and tolls, or (2) actual expenses attributable to business use. Actual expenses include gasoline, oil, tires, repairs, insurance, depreciation, parking fees and tolls, and garage rent. An employee's unreimbursed expenses can be deducted only as an itemized deduction subject to the 2% of Adjusted Gross Income floor.

W-2 REPORTING OF BENEFITS FOR S – CORP SHAREHOLDERS

There are special rules for certain fringe benefits received by S corporation shareholders who own more than 2% of the outstanding stock, and their family members. Amounts paid by the corporation for certain benefits, such as health, disability and accident insurance, all group term life insurance including the first \$50,000 of coverage, and reimbursed medical expenses must be treated as compensation to the shareholder and be reported on Form W-2, *Wage and Tax Statement*. Please note that health insurance is not subject to social security and Medicare taxes. A more than 2% shareholder may be able to deduct 100% of the amount paid for medical insurance for the shareholder, spouse and dependents.

ELECTRONIC EMPLOYEE COPIES OF FORM W-2

If your employees consent, you may be eligible to provide Form W-2 Copies B, C, and 2 to them electronically. Special disclosures must be made to employees and employees must retain the option to receive paper forms.



FORM W-2 REPORTING OF NON STATUTORY STOCK OPTIONS

Employers must report the difference between the fair market value and the exercise price of all employer-provided non statutory stock options exercised during the tax year. Employers must withhold Federal, FICA and Medicare taxes from compensation resulting from non statutory stock options. Amounts of employer-provided non statutory stock options included in wages on W-2 must be disclosed in Box 12, Code V as well.

PENALTIES

Highlighted below are some of the more common federal tax penalties:

- | | |
|--|---|
| • Failure to File Return –
Fraud | 15% of unpaid tax per month
(maximum 75%) |
| • Failure to File Return –
Reasonable cause | 5% of unpaid tax per month
(maximum 25%) |
| • Failure to Pay Tax | ½ of 1% per month (maximum 25%) |
| • Substantial Understatement | 20% |
| • Failure to Make Timely Deposits | Ranges from 2% to 15% depending
on the length of time elapsed. |

There are also significant penalties for failure to file Form 5500, *Annual Return/Report of Employee Benefit Plan* for employee benefit plans and for failure to file information returns or failure to include correct information on an information return.

GROUP TERM LIFE INSURANCE

The cost of group term life insurance in excess of \$50,000 of coverage that is provided to an employee is included as compensation to the employee and is subject to FICA OASDI and Medicare taxes. Exhibit E can be used to gather the information needed for the calculation. The cost is based on the employee's age as of December 31st, and is determined by the following table:



Table 5 – Uniform Premium for \$1,000 of Group Term Life Insurance Protection

<u>Age Bracket</u>	<u>Cost per \$1,000 of protection for each 1-Month Period</u>
Under 2505
25 to 2906
30 to 3408
35 to 3909
40 to 4410
45 to 4915
50 to 5423
55 to 5943
60 to 6466
65 to 69	1.27
70 and over	2.06

EXAMPLE: A Corporation pays the premiums on a \$70,000 group-term insurance policy on an employee. The employee is 50 years old. Excess coverage is \$20,000 (\$70,000 minus \$50,000). The monthly rate for \$1,000 of excess coverage for a 50 year old employee is 23¢. The 23¢ cost is multiplied by 20 (\$20,000 excess coverage divided by \$1,000) to give a \$4.60 monthly value on excess coverage. The annual value of the excess coverage will be \$4.60 multiplied by 12 months to yield \$55.20 in total income to be reported on the employee's Form W-2

BUSINESS HIGHLIGHTS OF THE 2004 TAX ACT:

Two major tax laws have just passed Congress: the *American Jobs Creation Act of 2004* and the *Working Families Tax Relief Act of 2004*. Both have important ramifications for virtually every business. Of the two, however, the American Jobs Creation Act of 2004 by far is the more complicated and far reaching tax law. In fact, it is being called the most massive tax bill for the business community since 1986. Most of the changes present opportunities for your business to save more taxes. Some, however, set traps for the unwary; while others are outright attempts to wring a few more tax dollars out of the business community.



The new manufacturers' deduction. (Effective for tax years beginning after December 31, 2004) Even if you don't think you are a manufacturer, this new deduction may be for you. Four years ago, the World Trade Organization declared the FSC/ETI (foreign sales corporation/extraterritorial income) tax regime for exporters an illegal trade subsidy and began to slap high fines on those businesses. In response, Congress has repealed that system (over a four-year period). In its place, it approved a new "manufacturer's deduction".

The new manufacturers' deduction, which itself is phased in gradually over six years, surprised many experts. It covers all income from manufacturing in the United States, not only from export businesses. It represents up to a 3 percentage point drop in a business's effective tax rate. What's more, "manufacturing" is defined very broadly to include not only traditional manufacturing, but also construction, engineering, energy production; computer software; filmmaking; and the processing of agricultural products. Corporations, individuals, S corps, partnerships, estates, trusts, and cooperatives can take advantage of the new deduction.

Small business expensing and depreciation. Two years ago, Congress raised the threshold for small business expensing for fixed asset additions from \$25,000 to \$100,000. The enhanced treatment was designed as a temporary measure to stimulate the economy, falling back to \$25,000 in 2006. The new law extends the higher small business expensing amounts through 2007.

The SUV deduction. (Effective for property placed in service after October 22, 2004) Large sports utility vehicles and luxury passenger trucks will no longer be able to be driven through a large tax loophole by business owners. Because the vehicle caps on depreciation do not apply to cars or trucks weighing more than 6,000 pounds, taxpayers could deduct up to the full cost of the SUV immediately as a §179 deduction. Not any more. Now, the deduction for vehicles weighing not more than 14,000 pounds is capped at \$25,000, effective for property placed in service after the October 22, 2004. However, that's still a lot more than the cap replaced on "regular vehicles" that hovers around the \$3,000 level.

Depreciation. (Effective for qualified leasehold improvement property placed in service after October 22, 2004 and before January 1, 2006) Congress approved a 15-year recovery period, using straight-line depreciation, for qualified leasehold improvements to nonresidential real property. The new law also provides a 15-year recovery period and straight-line depreciation for qualified restaurant property.



S Corp reform. (Effective for tax years beginning after December 31, 2004) The new law dramatically changes the S corporation rules. The permissible number of S corporation shareholders increases from 75 to 100. Congress also approved treating all members of a family as one S corporation shareholder for the purpose of determining the 100 shareholder limit. Each family shareholder will still receive a separate K-1 even if they are counted as one for the purposes of calculating the 100 shareholder limit. If you own a family business, this can represent a significant tax break.

The new law also: (Effective as of October 22, 2004) permits traditional and Roth IRAs to hold shares in a bank that is an S corporation. (Effective for tax years beginning after December 31, 2004) Allows suspended losses or deductions to be transferred in the case of transfers of stock to a spouse incident to divorce; eases the rules for determining potential current beneficiaries of an electing small business trust; relaxes some passive activity loss rules as they relate to qualified subchapter S trusts; gives relief from inadvertent invalid subchapter S subsidiary elections and terminations; provides for qualified subchapter S subsidiaries to file information returns; and more.

International tax reform. (Effective for tax years beginning after December 31, 2006 with transitional rules applying for years beginning after December 31, 2004) If you do business abroad, you will need to react to the American Jobs Creation Act in many different ways. Congress approved reducing the number of foreign tax credit baskets from nine to two. The two new baskets are passive category income and general category income. The new law also delineates some financial services income as general category income and allows taxpayers to make a temporary election about certain creditable foreign taxes. Congress also approved changes to the interest expense allocation rules for the foreign tax credit limitation. An actual list of all changes in this area literally goes on for pages.

Extended business credits and deductions. The Working Families Tax Relief Act of 2004 is not just for families. An entire section of this new law extends over 20 temporary business incentives, which either had expired at the end of 2003 or at the 2004 midpoint. Here are some of the major extensions:

- ***The research and development tax credit*** is extended for amounts paid or incurred after June 30, 2004 and before 2006. Over \$4.3 billion in R and D credits are claimed each year by some of America's biggest companies. They had lobbied for an expansion of the research tax credit, but came away with only an extension.



- ***The welfare-to-work and work opportunity tax credits*** are extended for wages paid or incurred for qualified individuals starting work after 2003 and before 2006. Many businesses have been lobbying for extensions of these two credits, which reward employers for hiring economically disadvantaged individuals. The WOTC can reach as high as \$2,400 for each employee. The maximum welfare-to-work credit is \$8,500 per employee.
- ***The enhanced deduction for charitable contributions*** of qualified computers is extended for contributions made in tax years beginning after 2003 and before 2006. Donations generally must be made to libraries and school.
- ***Contributions to Archer Medical Savings Accounts (MSAs)*** are extended through 2004 and 2005. Archer MSAs have not fulfilled the initial vision of many lawmakers. Participation has lagged and now they have a new competitor: Health Savings Accounts (HSAs). MSA balances may be rolled over into HSAs.
- ***The expensing of environmental remediation costs*** is extended for expenses paid or incurred after 2003 and before 2006.
- ***The renewable-source energy credit*** is extended for facilities placed in service after 2003 and before 2006.
- ***Suspension of the marginal-well net-income limitation*** is extended for tax years beginning after 2003 and before 2006.
- ***The credit phase-out for qualified electric and clean fuel vehicles*** is ignored for property acquired in 2004 and 2005.
- ***Qualified Zone Academy Bonds*** received special treatment through 2005.

“Revenue Raisers”. Not all the provisions in the new tax laws are favorable. Over \$100 billion in “revenue raising” provisions temper the celebration. These provisions also form a long list and need to be monitored. Tax shelter investors have been asked to pay up with increased penalties. Company aircraft can no longer write-off the expense of personal use by the company’s executive/owners one way and charge those execs additional income using another, more favorable measure. The size of vehicle donations, whether by a business or an individual, also has been severely restricted, effective starting in 2005. The list goes on.



Technical Corrections

The new law also devotes an entire section to “Technical Corrections”. They impact 15 major issues about interpretations of tax laws that have been enacted over the past 10 years. The majority of these corrections make substantive tax law changes that affect businesses. The most important provisions include:

- **Health savings accounts.** Amounts distributed from HSAs are not counted in determining the amount of health coverage tax credit an individual is eligible to receive.
- **Dividends rate.** The new law clarifies that the extraordinary dividend rule applies to trusts and estates as well as individuals. It also explains the 2002-2003 transition rules.
- **Stock holding period.** The new law permits taxpayers to satisfy the stock holding period requirements when they acquire stock on the day before the ex-dividend date.
- **Bonus depreciation.** Bonus depreciation property includes property subject to the section 263A capitalization rules by reason of having a long useful life.
- **Five-year NOL carryback.** Only NOLs arising in tax years ending in 2001 and 2002 qualify for the five-year NOL carryback period.

Other Issues

Some important tax cuts are not in the new law. That doesn’t mean they should be forgotten. Because they are expiring soon, time is running out to take advantage of the special bonus depreciation which expires on December 31, 2004. Most experts anticipate that it will not be extended.

MASSACHUSETTS:

- Massachusetts does not allow the bonus depreciation under the 2002 and 2003 Tax Act.
- Massachusetts extended its corporation 3 percent investment tax credit to January 1, 2009. The credit had previously been scheduled to revert to 1 percent after December 31, 2003.
- Massachusetts law has been amended to permit the formation of single member LLC.



- Massachusetts follows current rules under §179 for expensing depreciable assets. Currently there is no talk about de-coupling from the Federal treatment of the §179 deduction.
- Individual Income Tax Rates:
 - Part A income includes interest, dividends and short term capital gains, The capital gains are taxable at the rate of 12%. The interest and dividends are taxed at the same rate as part B income, currently 5.3%.
 - Part B income includes wages, salary, other employee compensation, pensions, partnership income, business income, rents, alimony, winnings, Massachusetts bank interest. Part B income is currently taxed at 5.3%.
 - Part C includes long-term capital gains taxable at 5.3%. All 5%, 4%, 3%, 2%, 1% and 0% long-term capital loss carry forwards will be aggregated as a long-term capital loss carry forward (currently 5.3%) in succeeding taxable years.
- Electronic filing is required for business returns due on or after January 1, 2004 if the aggregate of 2003 calendar year tax liabilities for wage withholding, state and local room occupancy excise, and sales and use tax exceeds \$10,000. Electronic filing is defined as by computer, on the Internet or by telephone with mandatory participation in the Electronic Funds Transfer program. Once the \$10,000 threshold is met, all future returns of the types mentioned above must be filed electronically, when applicable. In some cases, zero returns may be required. If a taxpayer is required to file electronically, the submission of a paper return will be deemed a failure to file and will be subject to penalties. All new business operators are required to register with the Massachusetts Department of Revenue on or after September 1, 2003 must use electronic filing for wage withholding, state and local room occupancy excise, and sales and use tax. Internet filing is available to registered taxpayers at the Mass DOR website under *Webfile for Businesses*.
- Corporations subject to the corporate excise with more than \$100,000 in gross receipts will be required to transmit all returns, documents and tax payments using electronic means as of January 1, 2005.
- Corporate extension requests must be filed electronically if they are already required to file and pay electronically. Corporations with more than \$100,000 in gross receipts or sales or a payment of \$5,000 or greater must make extension requests and any accompanying payment electronically as of January 1, 2005.



- For tax years beginning on or after January 1, 2004, any extension request and payment made by or on behalf of an individual taxpayer must be made by electronic means if a payment of \$5,000 or more accompanies the extension request. In addition, extension requests must be made by electronic means if no payment accompanies the extension request.
- Payers of non payroll payments reported on Form M-945 who are withholding tax on behalf of recipients of those payments must file and pay electronically for disbursements made on or after January 1, 2005.
- The Massachusetts Corporations Division has a web site that allows you to perform many different tasks through the ease of the Internet. You can file many of the corporation forms. You can even organize many types of business entities by filing on-line through this site. Businesses may want to consider filing their annual reports on-line. The new web site is <http://corp.sec.state.ma.us/portal/portalpage.htm>.

NEW HAMPSHIRE:

- New Hampshire does not allow the bonus depreciation under the 2002 and 2003 Tax Act.
- Actual cash or property distributions received or constructively received from S corporations, partnerships with transferable shares or trusts or estates with transferable shares are subject to New Hampshire's interest and dividends tax.
- The Business Profits Tax rate is 8.5% and the Business Enterprise Tax rate 0.75%. The filing threshold for the business enterprise tax is \$150,000 of gross business receipts from all their activities or \$75,000 of the enterprise value tax base.

In this letter, we have discussed information that may be applicable to the preparation and submission of your 2004 informational returns and to the computation of taxable employee benefits. We have also highlighted some of the changes as a result of the new 2004 tax legislation. Please do not hesitate to contact us if you have any questions regarding this information or if we can be of additional service.

Very truly yours,

Tonneson & Company CPAs PC

Tonneson & Company CPAs PC



Enclosures

EXHIBIT A

Annual Lease Value Table

<i>Automobile fair market value</i>	<i>Annual Lease Value</i>
\$0 to 999	\$ 600
1,000 to 1,999	850
2,000 to 2,999	1,100
3,000 to 3,999	1,350
4,000 to 4,999	1,600
5,000 to 5,999	1,850
6,000 to 6,999	2,100
7,000 to 7,999	2,350
8,000 to 8,999	2,600
9,000 to 9,999	2,850
10,000 to 10,999	3,100
11,000 to 11,999	3,350
12,000 to 12,999	3,600
13,000 to 13,999	3,850
14,000 to 14,999	4,100
15,000 to 15,999	4,350
16,000 to 16,999	4,600
17,000 to 17,999	4,850
18,000 to 18,999	5,100
19,000 to 19,999	5,350
20,000 to 20,999	5,600
21,000 to 21,999	5,850
22,000 to 22,999	6,100
23,000 to 23,999	6,350
24,000 to 24,999	6,600
25,000 to 25,999	6,850
26,000 to 27,999	7,250
28,000 to 29,999	7,750
30,000 to 31,999	8,250
32,000 to 33,999	8,750
34,000 to 35,999	9,250
36,000 to 37,999	9,750
38,000 to 39,999	10,250
40,000 to 41,999	10,750
42,000 to 43,999	11,250
44,000 to 45,999	11,750
46,000 to 47,999	12,250
48,000 to 49,999	12,750
50,000 to 51,999	13,250
52,000 to 53,999	13,750
54,000 to 55,999	14,250
56,000 to 57,999	14,750
58,000 to 59,999	15,250

For vehicles having a fair market value in excess of \$59,999, the annual lease value is equal to: (.25 x the fair market value of the car) + \$500.



EXHIBIT B

2004 AUTOMOBILE USAGE REPORT

(To be Completed by All Employees using Company Owned or Leased Vehicle(s))

Employee Name _____

The personal use of company owned or leased vehicles are a taxable fringe benefit. The amount of the benefit must be computed each year in accordance with Internal Revenue Service Regulations. The value of the fringe benefit will be included as additional compensation on your 2004 Form W-2, *Wage and Tax Statement*.

To assist in complying with this law, the following information for 2004 usage must be documented. Your response should be returned as soon as possible.

1. The number of business miles driven (your business miles do not include commuting to and from work). _____
2. The number of commuting miles driven. _____
3. The number of personal (other than commuting) miles driven. _____
4. The total number of miles you drove the company car during the year (sum of lines 1, 2 and 3). _____
5. Did you have a second personally owned vehicle available for personal use?
Yes ___ No ___
6. Did you maintain written records to document to your business and personal use? Yes ___ No ___
7. Do you wish to have federal and state income taxes withheld from your pay based on the taxable fringe benefit amount? Yes ___ No ___

(Signature)

(Date)

FOR COMPANY USE ONLY

Period Car Used by Employee During Year From: _____ To: _____

Type of Vehicle (Year/Make/Model) _____

Date Vehicle Purchased by the Company _____

Original Cost: _____

Gasoline Paid by Employer: ___ Yes ___ No



EXHIBIT C

**WORKSHEET TO CALCULATE INCOME
FROM PERSONAL USE OF COMPANY VEHICLE**

EMPLOYER'S WORKSHEET TO CALCULATE EMPLOYEE'S TAXABLE
INCOME RESULTING FROM EMPLOYER-PROVIDED VEHICLE
FOR CALENDAR YEAR 2004

Employee: _____

Description of Vehicle: _____

Date Vehicle First Made Available To Any Employee: _____

Date Vehicle First Made Available To This Employee: _____

Select One Method (Note Limitations On Methods II And III)

Usage Period: (*Check One*) 11/1/03 To 10/31/04 _____ Or Calendar 2004 _____

METHOD I – Annual Lease Value Method (For Autos Available 30 Days or More)

Fair market value of vehicle (redetermined at the beginning of the first year and every four years thereafter). \$ _____

Annual lease value, per attached chart \$ _____

Enter number of days during the year that the vehicle was available x _____ (1)

Divide by number of days in tax year ÷ _____ 365

Prorated annual lease value _____

Personal use % (personal/total miles, per statement from employee) x _____ %

Personal annual lease value \$ _____

If fuel is provided by employer, _____ x _____ (2) + _____
enter personal miles

Personal use taxable income \$ _____



(1) For autos available for a continuous period of 7 days or less, multiply the number of days available by 4. If the period is for more than 7 days, the taxpayer may prorate the annual lease value (without the 4 multiplier) by treating the auto as if it had been available for 30 days.

(2) If fuel is provided “in kind”, the fair market value may be determined based on all facts and circumstances or, alternatively, 5.5 cents per mile if auto usage is within U.S. Canada, and Mexico. Generally, where fuel is purchased and charged to the employer, the actual cost or reimbursement should be used. If employers with a fleet of 20 or more vehicles, reimburse or allow employees to charge fuel cost, the fleet-average cents per mile may be used. If the fleet employer determines that actual cost or fleet average methods are unreasonable administrative burdens, the 5.5 cents per mile may be used.



EXHIBIT D

**WORKSHEET TO CALCULATE INCOME
FROM PERSONAL USE OF COMPANY VEHICLE**

EMPLOYER'S WORKSHEET TO CALCULATE EMPLOYEE'S TAXABLE
INCOME RESULTING FROM EMPLOYER-PROVIDED VEHICLE FOR
CALENDAR YEAR 2004

METHOD II – STANDARD MILEAGE RATE METHOD

Generally, in order to qualify to use the cents-per-mile method, the vehicle must: (1) be expected to be regularly used in the employer's business throughout the calendar year, (2) be driven at least 10,000 miles per year, and (3) have a fair market value of \$14,800 or less. Once this method is adopted for a particular vehicle, it must be continued until the vehicle no longer qualifies.

Enter personal miles _____ x \$0.375 = \$ _____

If fuel is NOT provided by the
Employer enter personal miles _____ x \$0.055 = (_____)

Personal use taxable income \$ _____

METHOD III – SPECIAL COMMUTING METHOD

This method may only be used for vehicles covered by a written policy that allows commuting but no other personal use. **DO NOT USE** if employee is a 1% or more owner, an officer with compensation of \$95,000 or more, or an individual with compensation equaling or exceeding \$170,000.

Number of commuting round trips made _____

Value per round trip x _____ \$3.00

Personal use taxable income \$ _____



EXHIBIT E

GROUP TERM LIFE INSURANCE

(To be Completed by Employers)

Please complete the following for all employees with Group Term Life Insurance coverage in excess of \$50,000.

Employee Name			
Insurance Company			
Policy Number			
Amount of Coverage			
Policy Beneficiary			
Policy Premium			
Period Covered			
Employee's Age			

Completed By: _____

Name and Title

Date

NOTE: If Tonneson & Company, CPA's PC prepares your W-2 forms, please return this form to us as soon as possible.

