

ACCELERATING TAX DEDUCTIONS FOR PREPAID EXPENSES

Accelerating deductions for prepaid expenses is a good way to save on your taxes for the current year. The general rule for prepaid expenses is that any prepayment for a service or benefit must be capitalized and amortized over the useful life of such payment. However, the IRS allows accelerated deduction of certain prepaid expenses, with some complex restrictions involved. The following are general rules to qualify for the prepaid expense tax deduction and how they can impact your business.

THE 12-MONTH RULE

The “12-month rule” allows for the deduction of a prepaid expense in the current year if the right or benefit paid for does not extend beyond the earlier of:

- 12 months, or
- the end of the taxable year following the taxable year in which the payment is made.

For cash basis taxpayers, prepaid expenses can be deducted as long as the 12-month rule is met.



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DOL TO PLAN SPONSORS: FIND MISSING PARTICIPANTS

Several recent Department of Labor (DOL) investigations in Philadelphia have revealed that retirement plan benefits due to participants in qualified retirement plans were not being paid because plan sponsors claimed participants were “missing.” The DOL, however, was easily able to locate these missing participants and recovered benefits totaling more than \$165 million. As a result, the DOL is expanding this Philadelphia pilot program nationwide.

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REDUCING RETIREMENT PLAN FRAUD

In 2016, the Department of Labor’s Employee Benefits Security Administration closed 2,002 civil investigations, with 1,356 of those cases resulting in monetary results for retirement plans or other corrective actions. Additionally, over \$777 million was recovered for direct payment to plans, participants, and beneficiaries. There are preventive controls that fiduciaries to retirement plans can use to mitigate the risk of plan asset fraud.

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Example: Calendar-year cash basis taxpayer SmallCorp pays \$10,000 on December 31, 2017, for an insurance policy that is effective January–December 2018. Since the benefit of the insurance policy does not extend more than 12 months or beyond the end of taxable year following the year the payment was made, the 12-month rule applies and the full \$10,000 is deductible in 2017.

THE ALL EVENTS TEST & ECONOMIC PERFORMANCE TEST

For accrual basis taxpayers, the rules are more complicated. There are two tests that must be met before the taxpayer can apply the 12-month rule. These are commonly known as the “all events test” and “economic performance test.” The general rule is that the taxpayer cannot deduct a prepaid expense until the obligation to pay is fixed (all necessary events have occurred to establish liability), the cost is determinable, and the prepaid services or property are actually provided to the taxpayer (economic performance).

There are a few notable exceptions where a cash payment results in economic performance. Common items include insurance contracts, warranty contracts, taxes, and workers’ compensation liability.

Example 1: Calendar-year accrual basis taxpayer BigCorp pays \$10,000 on December 31, 2017, for property taxes covering January–June 2018. Since taxes are listed as one of the items where payment is economic performance, the prepaid property tax expense can be deducted in 2017.

Example 2: Calendar-year accrual basis taxpayer BigCorp pays \$10,000 on December 31, 2017, for rent expense covering January 2018. Economic performance occurs when the property is being used during the rental period. Therefore, the prepaid rent expense cannot be deducted in 2017.

OPPORTUNITY

If accelerating the deduction of prepaid expenses was not a strategy in the past, there could be opportunities to do so this year. If this is the initial year of a business, the business can simply take the accelerated deductions for prepaid expenses on the tax return. However, if prepaid expenses were capitalized in the past, a method of accounting has already been established. In order to start accelerating prepaid expenses, the IRS requires filing Form 3115 to change the accounting method. This change is automatic and does not require permission from the IRS in advance. An immediate one-time deduction is available for the previously capitalized prepaid expenses that would have been deducted under the new method for the year the change is made.

If you have questions or would like more information, please contact Andrew Chien at achien@windes.com or 844.4WINDES (844.494.6337).



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DOL TO PLAN SPONSORS: FIND MISSING PARTICIPANTS

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Plan sponsors have a fiduciary duty to locate missing participants and to have a process to ensure that all plan beneficiaries receive their benefits under the plan.

The acting director of the of the DOL's Employee Benefits Security Administration, Timothy Hauser, announced that there will soon be new guidance regarding standards that plan sponsors must follow to locate missing participants. Until the new guidance is released, the following due diligence steps should be taken:

- Send a certified letter to each "missing" participant's last known address.
- Maintain good records on efforts to locate terminated vested participants. In the case of a merger or acquisition, pass those records on to the successor employer.
- Contact co-workers of terminated vested participants and ask them if they know how to get in touch with the participant.
- Contact the participants beneficiaries.
- Contact missing participant's through their phone numbers.
- Use a commercial locator service, internet search tools, and/or credit reporting agencies.

DOL auditors will review plan sponsors' efforts to locate and contact missing participants and may treat the failure to do so as a breach of fiduciary duty under the Employee Retirement Income Security Act (ERISA), which can result in substantial penalties. Plan fiduciaries could be personally liable to pay participants their missed benefits.

With increased scrutiny from the DOL, it is imperative that plan sponsors establish procedures to communicate with former employees who have unclaimed retirement plan benefits.

If you have questions or would like more information, please contact Therese Cheevers at tcheevers@windes.com or **844.4WINDES** (844.494.6337).



THERESE CHEEVERS, APA, ERPA
Senior Manager
Employee Benefit Services

COST OF LIVING ADJUSTMENTS FOR 2018

	<u>2017</u>	<u>2018</u>		<u>2017</u>	<u>2018</u>
Maximum Compensation	\$ 270,000	\$ 275,000	Covered Comp. Limits-Social Security	\$ 127,200	\$128,400
Maximum Contribution Limit	\$ 54,000	\$ 55,000	Catch-Up Contributions 401(k)/403(b)	\$ 6,000	\$ 6,000
401(k) Annual Limit	\$ 18,000	\$ 18,500	Catch-Up Contributions SIMPLE 401(k)	\$ 3,000	\$ 3,000
SIMPLE Retirement Accounts	\$ 12,500	\$ 12,500	Highly Compensated Employee	\$ 120,000	\$ 120,000
457/403(b) Annual Limit	\$ 18,000	\$ 18,500	IRA Contribution Limit	\$ 5,500	\$ 5,500
Defined Benefit Annual Limit	\$ 215,000	\$ 220,000			

REDUCING RETIREMENT PLAN FRAUD

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BENEFIT PAYMENTS

Terminated employee accounts, especially accounts that have minimal activity or outdated contact information, are susceptible to fraud, since a plan administrator may be able to request unauthorized benefit payments. Plan administrative committees and management should perform the following preventive measures:

- Designate an individual who does not have the authorization to request distributions to review and approve distribution requests.
- Provide employees with benefit distribution information upon termination of employment.
- Work with the third-party provider to contact terminated employees on a regular basis to have plan assets distributed.
- Implement procedures to update employee contact information at least annually to ensure that participants, especially terminated employees, are receiving statements to review to ensure accuracy.

CONTRIBUTIONS

Any individual involved in the handling of employee/employer contributions can easily move funds to their own plan or personal accounts, especially if the plan does not have oversight once the funds are deposited to the plan. Companies with a large number of employees contributing to the plan are especially susceptible to fraud. The plan administrative committee and management should designate an individual outside of the payroll function to perform a detailed reconciliation of employee payroll deferral withholdings to plan contribution deposit records to ensure employee contributions are properly allocated to each participant.

FRAUD PREVENTION STEPS FOR PLAN SPONSORS

Here are some steps that can help keep the plan, its participants, and assets free from fraud:

- Implement a whistleblower policy.
- Ensure proper segregation of duties.
- Perform periodic audits of participant contributions and distributions to ensure there are no discrepancies.
- Educate participants and management on how to monitor their retirement plan.

If you have questions or would like more information, please contact Jessica Kober at jkober@windes.com or **844.4WINDES** (844.494.6337).



JESSICA KOBER, CPA, CFE
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2018 CALIFORNIA EMPLOYMENT LAW CHANGES

EXPANDING PARENTAL LEAVE TO SMALL EMPLOYERS

Effective January 1, 2018, new legislation will expand parental leave benefits to employers with 20 or more employees. The new law will require businesses with 20-49 employees (currently 50 employees) within a 75-mile radius to provide 12 weeks of unpaid leave to eligible employees after the birth of a child, adoption, or foster care placement.

An eligible employee is one who has worked for the employer for at least 12 months (does not need to be consecutive), worked at least 1,250 hours in the 12-month period preceding the use of leave, and who works at a worksite with 50 or more employees in a 75-mile radius.

Under this bill, employers must guarantee employment in the same or comparable position upon conclusion of the leave. While otherwise unpaid, the new legislation would require employers to maintain an employee's medical benefits during the leave. Employees may use accrued vacation pay, paid sick time, or other accrued time off during the parental leave.

PAST SALARY OFF-LIMITS TO EMPLOYERS

Effective January 1, 2018, AB168 (Labor Code Section 432.3) prohibits employers from asking job candidates about the compensation and benefits the candidate earned at his/her prior position(s). Additionally, employers may not rely on the salary history information in determining whether to offer employment to an applicant or what salary to offer an applicant. Further, upon request, an employer shall provide the pay scale for a position to an applicant. However, a candidate may still voluntarily disclose his/her salary history, so long as it is done without prompting or encouragement from the potential employer, and an employer may still ask what compensation and benefits the applicant is seeking. If disclosed voluntarily, the law does not prohibit the employer from considering the voluntarily disclosed salary history information.

The law will have a significant practical impact for employers. Employers will need to update employment applications to remove questions regarding salary history or benefits information; however, asking for the applicant's "desired pay" is still permissible. Individuals who conduct hiring interviews of applicants should be trained on the new law. Employers should consider establishing pay ranges for each position based on lawful, non-discriminatory factors and be prepared to respond to applicants who request the pay scale for a position.

If you have questions or would like more information, please contact Eileen Harris at eharris@windes.com or 844.4WINDES (844.494.6337).



EILEEN HARRIS, ESQ.
Director
Human Resources

WINDES IS A "BEST PLACE TO WORK"

Windes has been named as one of the **2017 Best Accounting Firms to Work For** in the country by *Accounting Today* and the *Best Companies Group (BCG)*. This survey and awards program is designed to identify, recognize and honor the best employers in the public accounting profession. Recognition is bestowed to the top 100 firms in the country. This is the sixth time that Windes has been nationally recognized for its achievements in workplace satisfaction.

Additionally, Windes has been named as one of the **Best Places to Work** by the *Orange County Business Journal*, for the seventh consecutive year, with a third place ranking in the middle-market category, and also by the *Los Angeles Business Journal* for the tenth consecutive year. The firm participates in these two annual programs that rank elite employers on their ability to create and support environments where people love to work. As with the *Best Accounting Firms to Work For* program, Windes responds to an extensive questionnaire regarding the firm's benefits, policies, practices and general information. In addition, the firm's employees respond to a confidential online survey administered by the BCG. BCG analyzes the input and determines the top companies that are worthy of being awarded a ranking.

In addition to the three awards, Windes has been recognized for the seventh consecutive year as an *Inside Public Accounting Top 200 Firm* in the country (since its inception in 2010).

HOW CLOUD COMPUTING CAN WORK FOR YOU

Cloud computing is not just for business. Thanks to a wave of cloud-friendly applications, individuals can enjoy the benefits of easier access, higher security, and cross-device data sharing as compared to the traditional computing model. All social media is cloud-based and user friendly, as are a number of productivity, finance, and photo management applications.

Personal productivity applications, such as Evernote or Microsoft One-Note, give the user a place to save notes, documents, diagrams, and to-do lists in a notebook-like format. Via a cloud-based repository, this information replicates quickly to all of the user's devices – computers, phones, or tablets. Information is accessible anytime, from any location. A simple web browser may be used instead of an installed app, depending on preferences.



The cloud-based application, Mint, offers individuals an advanced tool set for personal money management.

YouNeedaBudget, also known as YNAB, is for the person who needs a spending and saving budget. These tools, and others like them, store data in the cloud and allow access from multiple devices. Sharing finance data with a partner is simple too! Once a budget is established, electronic payment apps can be used to shop or pay household bills. PayPal, Venmo, and Apple Pay are well-known, inexpensive to use, and easily accessible.

Need to share or back up digital photographs? Consider Flickr or Google Photos. Each uses a cloud-based backend to provide multi-device access and selective photo sharing. Google also applies application intelligence to categorize photos automatically. One differentiating feature of both products is that photos are stored, by default, in full resolution, rather than in a space-reducing, quality-lessening format. Why buy high resolution cameras if the photos are downgraded in storage?

Cloud computing has made an impact in the consumer space, growing well beyond the business market. These are just a few examples of cloud computing advantages available to the individual. Be on the lookout for more to come.

If you have questions or would like more information, please contact Norm DuBow at ndubow@windes.com or **844.4WINDES** (844.494.6337).



NORM DuBow
*Director
Information Technology
Services*

WINDES AROUND THE WORLD

THE CIVIC 50 ORANGE COUNTY RECOGNIZES WINDES

Windes has been recognized as an honoree in the inaugural 2017 *Civic 50 Orange County* awards by the *Orange County Business Journal* and *OneOC*.



The award provides a local standard for superior corporate citizenship and showcases how companies use their time, skills and other resources to improve the quality of life in the community where they do business. This is the first time the Civic 50, a national initiative of Points of Light, has been localized for a specific market. Since 2012, the Civic 50 has annually recognized the 50 most community-minded companies in the nation as determined by a survey developed by True Impact. For Orange County, honorees were determined using True Impact's adapted national Civic 50 online survey that is independently administered and scored.

Companies were selected based upon four dimensions of their community engagement programs: investment, integration, institutionalization and impact.

WINDES GOES THE EXTRA MILE AT THE LONG BEACH MARATHON

The Jet Blue Long Beach Marathon, Half Marathon, and Bike Tour is an international event supported by numerous local businesses and nonprofit organizations. Windes is proud to be a part of this Long Beach tradition, handing out water and cheering on participants as they pass the 13th mile-marker at beautiful Marine Stadium. The race begins and ends at Shoreline Village in Downtown Long Beach, where runners and cyclists can see spectacular views of the iconic Queen Mary. The full marathon makes its way through the Port of Long Beach, Belmont Shore, past Cal State Long Beach, and back to downtown. This is the 12th consecutive year that Windes employees and their family members have volunteered at the Long Beach Marathon.



Back row: Sabrina Trang, Krystal Landrum, Zachary Tudhope, Allison Tudhope, Dennis Hadeen, Jim Cordova, Jessica Barrington, Phillip Barrington, Rebecca Christiansen, Jonathan Arriola

Front row (including two standing on each side of bench): Cheryl Cabeles, Therese Cheevers, Guy Nicio, Nicole Sweet, Kelly Buck, and Nicolle Kusterer



WINDES PARTNER IS FEATURED SPEAKER AT INVESTOR CONFERENCE IN VIETNAM

Tax & Accounting Partner Sean McFerson, recently spoke to over 100 high-net-worth individuals at the Redwoods Capital Investor Conference in Ho Chi Min City, Vietnam. Sean's presentation focused on the income tax implications of foreign investment in the U.S. real estate market and foreign investors who want to physically move to the U.S. Sean specializes in domestic and international taxation issues of private companies and high-net-worth individuals, including domestic and international restructuring, and U.S. inbound and outbound tax planning.

ROBERT "BOB" LORENZETTI JOINS WINDES



BOB LORENZETTI

We are pleased to announce that Bob Lorenzetti has joined the Windes team in Irvine as a Principal in our Tax and Accounting Services Department, along with Bob's executive assistant, Morgan Dunn.

Bob has more than 25 years of experience serving as a strategic business advisor in securing debt and equity placements for clients seeking to expand their businesses. In addition to consulting with clients to achieve their long-term objectives, he has developed and grown an accounting practice that offers financial statement reporting, tax preparation, and tax examination services. Bob's background also includes serving in the capacity of chief financial officer for privately held companies in the real estate, financial services, and technology sectors. He has established and cultivated an extensive network over the years and we look forward to working with him on new opportunities with the vast array of services our firm has to offer.

Bob earned his Bachelor of Science in Accounting and Finance degree at Loyola Marymount University. He is a past officer and board member of the Balboa Yacht Club in Newport Beach.

WINDES PARTNER IS NAMED ONE OF THE MOST INFLUENTIAL WOMEN IN ACCOUNTING

Los Angeles is truly a national leader when it comes to influential women in business. We are proud to announce that Tax & Accounting Partner, Donita Joseph, has been selected by the Los Angeles Business Journal as one of the **Most Influential Women in Accounting** and was featured in the *Los Angeles Business Journal's* October 30, 2017 issue.

Donita has more than 30 years of experience in taxation issues involving estate and trust tax planning. She heads the firm's Estate & Trust practice and is the lead tax partner for the firm's Nonprofit Practice. Donita is currently a board member of the Estate Planning Committee for the California Society of Certified Public Accountants (CalCPA), where she served as Chair from 2009 through 2012. She previously served on the American Institute of Certified Public Accountants' Estate and Gift Tax Technical Resource Panel. Donita has also served as President of the Long Beach Estate Planning and Trust Council, Chair of the Orange County/Long Beach Chapter Estate Planning Committee of the CalCPA, Board President of Camp Fire USA of Long Beach, and a planning committee member of the Long Beach Leadership Prayer Breakfast.



DONITA JOSEPH

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