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IRS Offers Employers a “Fresh Start” on Classifying Workers. The IRS has launched a new program that it says will allow many employers to resolve past worker classification issues under the tax law at a low cost if they voluntarily agree to reclassify their workers as employees [IR 2011-95 ; Ann. 2011-64, 2011-41 IRB].

The new program is called the “Voluntary Classification Settlement Program” (VCSP). It is part of the IRS “Fresh Start” initiative. The VCSP will allow eligible taxpayers to voluntarily reclassify their workers for federal employment tax purposes and obtain relief similar to that obtained in the current Classification Settlement Program. Participants who voluntarily reclassify their workers as employees in future tax periods will have limited federal employment tax liability for the past nonemployee tax periods. To participate in the program, the taxpayer must meet certain eligibility requirements, apply to participate in the VCSP, and enter into a closing agreement with the IRS. Unlike the Classification Settlement Program, a taxpayer doesn't have to be under audit to participate in the VCSP.

Eligibility requirements. Taxpayers who want to voluntarily change the prospective classification of their workers may apply for the VCSP. The program is open to businesses, tax-exempt organizations, and government entities. It can be used by taxpayers who are currently treating their workers (or a class or group of workers) as independent contractors or other nonemployees, and who want to prospectively treat the workers as employees. To be eligible, a taxpayer must have consistently treated the workers as nonemployees, and must have filed all required 1099 forms for the workers for the previous three years. The taxpayer cannot currently be under audit by the IRS. Furthermore, the taxpayer cannot currently be under audit with respect to the classification of the workers by the Department of Labor (DOL) or a state government agency. A taxpayer who was previously audited by the IRS, or the DOL, with respect to the classification of the workers, will only be eligible to participate in the program if the taxpayer has complied with the results of that audit.

Program terms. A taxpayer who participates in the VCSP must agree to prospectively treat the class of workers as employees for future tax periods. In exchange, the taxpayer will pay 10% of the employment tax liability that may have been due on compensation paid to the workers for the most recent tax year, determined under the reduced tax rates in Code Sec. 3509 . The taxpayer will not be liable for any interest and penalties on the liability and will not be subject to an employment tax audit with respect to the worker classification for prior years. Additionally, a taxpayer participating in the VCSP must agree to extend the period of limitations on assessment of employment taxes from three to six years for the first, second, and third calendar years beginning after the date on which the taxpayer has agreed under the VCSP closing agreement to begin treating the workers as employees.

Circular 230 Disclaimer: Any tax advice contained in the body of this material was not intended or written to be used, and cannot be used, by the recipient for the purpose of (i) avoiding penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions, or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein. The taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

Application and closing agreement. Eligible taxpayers who wish to participate in the VCSP must submit an application for participation in the program on Form 8952, *Application for Voluntary Classification Settlement Program (VCSP)*, at least 60 days before they want to begin treating the workers as employees. Along with the application, the taxpayer should provide the name of a contact person or an authorized representative on Form 2848, *Power of Attorney and Declaration of Representative*. The IRS will contact the taxpayer or authorized representative to complete the process once it has reviewed the application and verified the taxpayer's eligibility. The IRS retains discretion on whether to accept a taxpayer's application for the VCSP. Taxpayers whose application has been accepted will enter into a closing agreement with the IRS to finalize the terms of the VCSP and will simultaneously make full and complete payment of any amount due under the closing agreement.

IRS Offers Tips on Small Business Health Care Tax Credit [Special Edition Tax Tip 2011-06]. IRS recently posted a special reminder on its website addressing what employers should know about claiming the small business health care tax credit. According to the agency, many small employers that pay at least half of the premiums for employee health insurance coverage under a qualifying arrangement may be eligible for the tax credit. The credit is specifically targeted to help small businesses and tax-exempt organizations that primarily employ 25 or fewer workers with average incomes of \$50,000 or less. "This credit can enable small businesses and small tax-exempt organizations to offer health insurance coverage for the first time," IRS said, adding that it also helps those already offering health insurance coverage to maintain their existing coverage. Additional details are contained in the tax tip, which is located at <http://www.irs.gov/newsroom/article/0,,id=246605,00.html>.

Estimated tax payments. The following estimated tax payments are due by November 15, 2011:

Individuals	No installment due
Corporate Income Tax Years Ending:	
July 31, 2012	1 st Installment
May 31, 2012	2 nd Installment
February 28, 2012	3 rd Installment
November 30, 2011	4 th Installment