

TO SOGGDA READERS

Happy Holidays

Best Wishes for 2011

FROM

Genuine

AUTO PARTS

SOGGDA NEWS

Southwestern Ohio Garage & Gasoline Dealers Association, Inc.

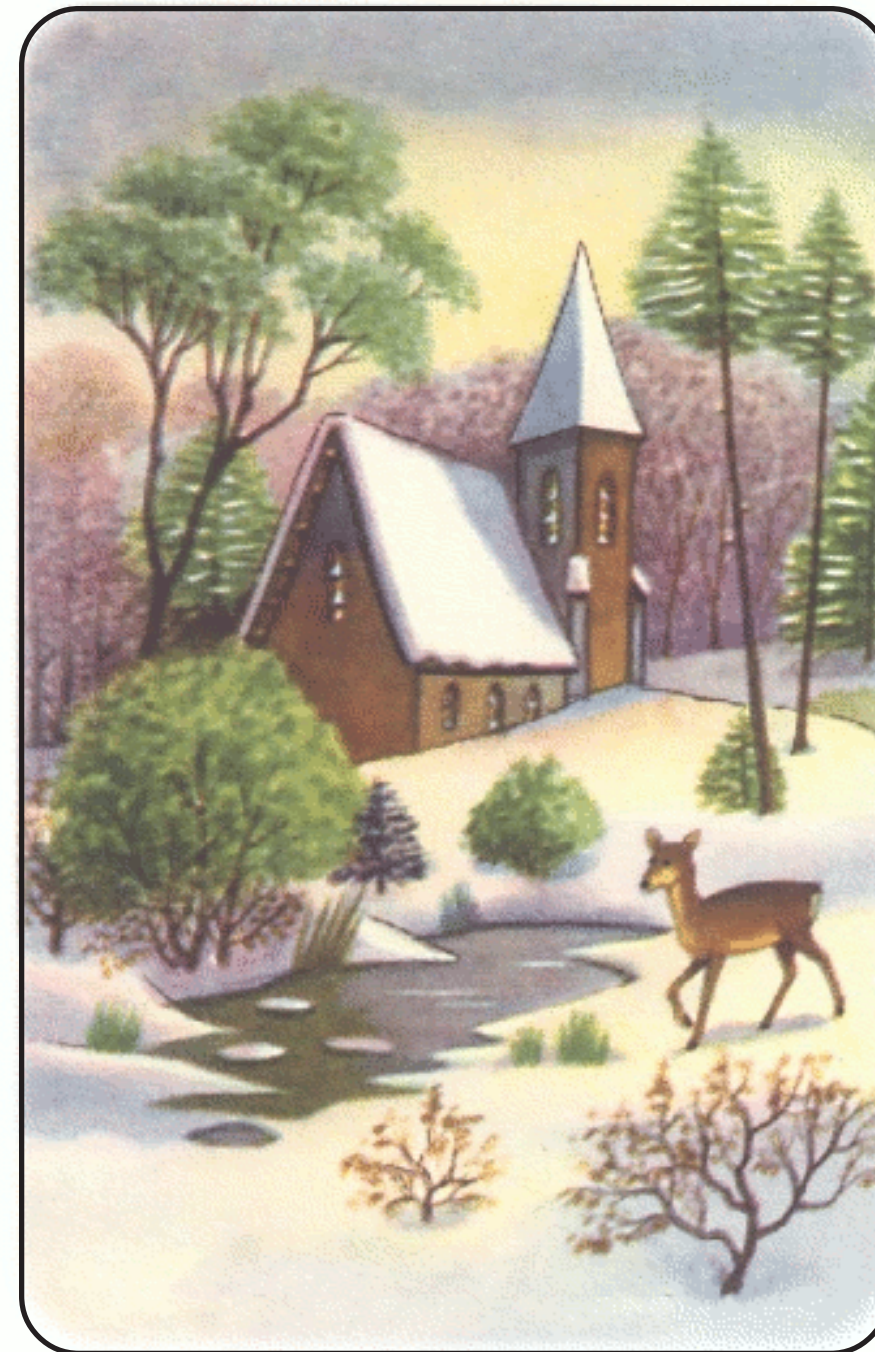
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November/December 2010



Have a
Wonderful
Holiday
Season
and
a Very
Happy
New Year!

From your
Friends at
SOGGDA!

THE SOGGDA NEWS

Official publication of Southwestern Ohio Garage Gasoline Dealers Association is published 12 times yearly and dedicated to the betterment of the position of independents in the automotive and petroleum industry.

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Vonnie Schriml Accountant

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Patricia S. Booker Editor

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Are Your Stores ADA Accessible?

Would you know what to do if a customer guided by a miniature horse walked into your store?

On September 15, the Department of Justice published final regulations, which would implement major changes to current Americans with Disabilities Act (ADA) accessibility guidelines. This final action sets in motion nearly 1000 new standards — 500 of which will affect your convenience and petroleum retailers.

Some of these requirements are prospective, meaning you will have to comply only if you make significant modifications (as defined the rule) to your covered facility. However, other requirements may mandate retrofit if you are not currently compliant with the few hundred standards. Still another 100 or more requirements are so complex that legal advisors are unclear how Justice Department officials will interpret them.

The following is an excellent example of a new requirement that is unclear: "Sec.36.302 Modifications in policies, practices or procedures. Miniature horses, a public accommodation shall make reasonable modifications in policies, practices, or procedures to permit the use of miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability."

What exactly this provision means for your store is unclear, but technical and legal experts are trying to better understand provisions like this. Unfortunately, we may not know for certain until the Justice Department initiates an enforcement action or a court proceeding establishes a clear interpretation of the provision.

The Justice Department has already been aggressive in its efforts to enforce ADA compliance and the convenience industry is one of its targets.

Are you online?

SOGGDA is able to send you this newsletter via e-mail for those who wish to receive it electronically rather than US Mail.

If you would like to be added to the list, call today at 937/890-9670 or send an email request to soggda@aol.com

Memo from SSSA

Genuine Honda Parts

We want to make sure that your members are aware of what GM and Honda are up to. GM is mounting a campaign to shut the aftermarket out of the oil change business by creating a new specification of motor oil that they are licensing as Dexos. This oil is semi-synthetic and will increase the cost of a customary oil change, creating real customer relations problems as shop owners have to explain why oil changes are now so much more expensive than they used to be. The GM dealerships will get a significant discount on the product. According to GM, use of Dexos will result in longer oil change intervals. GM has stated in meetings and symposiums that this initiative will put the quicklubes out of business.

The attached position statement from Honda takes a slightly different approach by recommending that Honda owners stay away from "aftermarkets, gray markets, or counterfeit parts" then inferring that their warranties will be jeopardized by using these parts. Notice how inclusion of aftermarket parts with counterfeit parts taints the product that you sell. SSSA will be meeting with the FTC, along with AOCA and AAIA to see if we can convince them of the anti-competitive nature of these statements and harm they will be doing to consumers.

Taken together these separate initiatives make it abundantly clear that the manufacturers have no intention of "sharing" the aftermarket repair business and they will continue to develop ways to keep the business at the dealership. SSSA's experience with Right-to-Repair tells us that if we can make a loud enough noise we can keep the manufacturers semi-honest. I hope that all of you will start communicating with your repair members now to get them involved. SSSA

Honda Position Statement

The original parts used on a Honda automobile are designed and built to work together within their respective systems to provide optimum performance, safety and system integrity.

American Honda recommends that all maintenance and repairs are performed using Honda recommended procedures and Honda Genuine parts which are designed for use in a specific Honda vehicle. Other parts, whether aftermarket, counterfeit or gray market, are not recommended.

The quality, performance and safety of these parts and whether they are compatible with a particular Honda vehicle are unknown. Only by purchasing Honda genuine parts through an authorized US Honda dealer can you be assured of the replacement part's authenticity, reliability and compatibility.

American Honda's new vehicle warranty and replacement parts warranty do not apply to any part which is not purchased from and authorized US Honda dealer.

American Honda will not be responsible for any subsequent repair costs associated with vehicles or part failures caused by the use of parts other than Honda Genuine parts purchased from an authorized US Honda dealer.

SOGGDA Safety Meeting Report

SOGGDA's 19th annual safety meeting was held on October 13, 2010 at the Holiday Inn - Dayton Mall.

First on the agenda was a delicious buffet enjoyed by all present.

The meeting was opened by SOGGDA President Jan Murphy, who introduced the first of our guest speakers; John Daney from SOGGDA's third party administrator, ProComp. John gave a brief update on some of the BWC changes in the group rating discount program. Questions and answers followed.

Bob Heater from the Division of Safety & Hygiene spoke next. Question and answer time followed.

Representative from Health Management Solutions, Mike Pulsfort spoke on the MCO's role in group rating. Laurie Poston was also available to answer questions from SOGGDA members.

Jan Murphy introduced vendors and special guests at the meeting and thanked every one for their attendance. Lastly she encouraged every one to visit our participating vendors tables.

Congratulations to these door prize winners:

LG 42 inch flat screen TV
Renee Adamson Enon Auto Service

LG 42 inch flat screen TV
Bob Barlow Gateway Auto Clinic

I Pad Notebook
Greg Coffman Market Place Express

I Pad Notebook
Mike Karns Bellbrook Automotive

LG Blue Ray with Surround Sound
Tari Torbeck Torbeck Auto Repair

First Aid Kits
Stephanie Zwissler and Jeff Bernhardt



Special Thanks To:
ProComp
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Tod Phillips
and
Health
Management Solutions
(MCO) for sponsoring
our 19th annual
Safety Meeting.

Avoiding Winter Sluggishness



With the advent of cold weather and the holidays, many people report feeling sluggish and tired. Fitness expert Susan Davis blames this on the excessive time that people spend indoors during the colder months and their tendency to over indulge in holiday eating and drinking. Here's what she recommends to beat the winter blahs:

- * Work out at least three times a week.
- * Take walks outside - even in inclement weather.
- * Be moderate in your alcohol intake.
- * Eat small, balanced meals to keep blood sugar stable.



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Englewood Insurance Agency	Walt Harrison	937-890-2759
West Milton Optical	Terry Hassell/ John Stuckey	937-698-4456
Wright-Patt Credit Union	Heather Coyle	937-912-7311



General Counsel Corner

By: Peter H. Gunst, Esq.
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Dirty Dealing on the New York Thruway

When Lehigh Petroleum, a large interstate distributor, secured the right to negotiate with the New York Thruway to supply a group of existing Thruway service station locations, it approached the dealer operators with big promises and assurances.

At a meeting called by Lehigh, it conducted a slide show for the dealers that trumpeted its commitment to “partner with our Dealers for long-term, mutually beneficial success.” Following the slide show, however, it presented the dealers - who previously enjoyed full PMPA rights under standard franchise agreements - with Trial Franchise and Lease Agreements having only a 4-month duration.

Within months, Lehigh ended its franchise relationship with two of the dealers who leased five Thruway stations, but who had executed the Trial Franchise and Lease Agreements. Lehigh provided no advance written notice of termination, and immediately entered into new franchise agreements with other parties.

The terminated dealers filed suit in federal court, charging that Lehigh had violated the PMPA by failing to offer them three-year franchise agreements, and by failing to provide them with the statutorily required written notice of termination. The court’s decision on the parties’ cross- motions for summary judgment is *Jimico Enterprises, Inc. v. Lehigh Gas Corp.*, 2010 WL 2985962 (N.D.N.Y. 2010).

Although the court found that Lehigh had clearly violated the written notice requirements of the PMPA, the relief that was granted the dealers was limited to the 90-day notice period that the dealers should have received.

The court rejected the plaintiffs’ claim to long-term damages because they had signed temporary franchise agreements that replaced their earlier full-term PMPA franchise agreements. The PMPA expressly permits a new franchisor like Lehigh to enter into temporary franchise agreements lasting no more than a year that can be terminated for any or no reason.

By entering into such agreements with Lehigh, the dealers effectively surrendered most - but not all - of their PMPA rights. All that remained to them was the damages resulting from their failure to receive 90-day written notices of termination.

In a subsequent opinion, *Jimico Enterprises, Inc. v. Lehigh Gas Corp.*, 2010

WL 4052926 (N.D.N.Y. 2010), the court quantified the damages that the dealers were entitled to receive. The court found that the dealer who had lost three locations was entitled to judgment in the amount

of \$120,461.38, consisting of lost income and lost profits pertaining to the 3-month period plus \$10,000 in punitive damages. The other dealer was awarded \$51,431.38 in damages, representing lost income and profits for the same 90-day period plus \$10,000 in punitive damages.

These damage awards are not nominal, but they represent only a small portion of the damages the dealers would have received had they retained full-term PMPA franchise agreements.

Lehigh’s conduct was egregious. That is confirmed by the court’s award against it of punitive damages, which rarely occurs in PMPA cases. The dealers, however, severely compromised their right to relief by entering into trial franchise agreements in reliance on Lehigh’s empty promises of a long-term, mutually beneficial relationship.

The moral is clear. A dealer must seriously consider all of his or her legal options before entering into a trial franchise relationship. Afterwards, it may be too late.

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To access the latest articles by the Service Station Dealer’s legal counsel, please visit the “Service Station Dealers: Legal Issues” section of the As-trachan Gunst Thomas Rubin, P.C. website at: <http://www.agtlawyers.com/resources/>

ENTERPRISE WASTE OIL

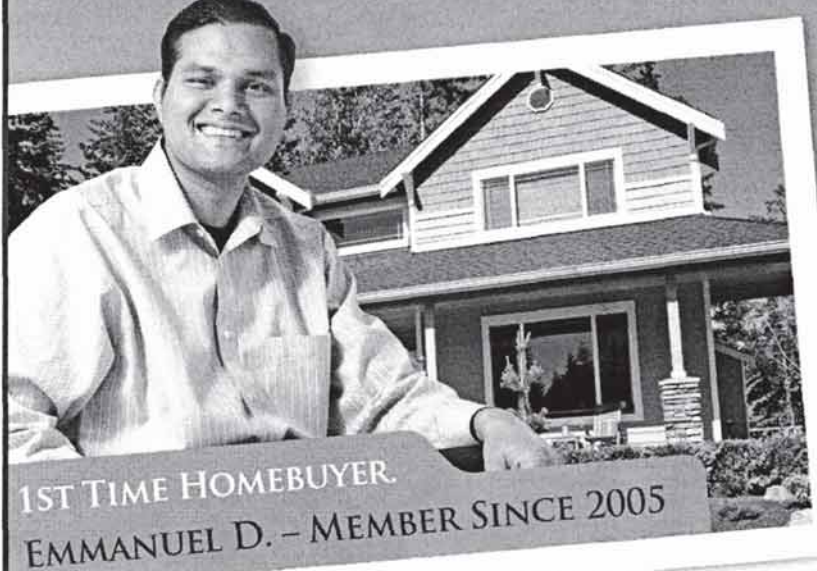
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EPA's Proposed Definition of Non-Hazardous Solid Waste Creates Barriers for the Used Oil Recycling System

EPA's Proposed Solid Waste Rule

EPA is proposing to define all off-specification used oil as a solid waste. Under the Clean Air Act, solid waste cannot be recycled as fuel; it must be burned in an incinerator. This rule would devastate the used oil recycling system and would decrease, not increase, the protection of the environment.

Current Used Oil Recycling System

Existing EPA regulations ensure the safe collection and recycling of used oil. Approximately 780 million gallons of used oil is used as fuel annually in accordance with these regulations. No problem has been identified with the current recycling system.

In establishing its current used oil regulations, EPA was careful to avoid creating barriers to recycling. EPA recognized that if recycling was difficult more used oil would be discarded down the drain or on the ground. Thus, under current law both on and off-specification used oil can be recycled through use as fuel in boilers, industrial furnaces, and space heaters. For example, approximately 113 million gallons is used for heating purposes by approximately 100,000 small businesses across the U.S. in used oil fired space heaters.

Current law includes incentives for persons to collect used oil from do-it-yourself (DIY) oil changers. One incentive allows both on and off-specification used oil that is collected from households to be used as fuel in space heaters. This provision allows automotive maintenance facilities to collect DIY oil without incurring the cost of testing it. Another incentive is an exemption from Superfund liability for

service station dealers that collect used oil from the public and send it to recyclers.

Impact on Used Oil Collection

If off-specification used oil cannot be recycled as fuel, then automotive maintenance facilities will have to test any used oil they collect from the public to determine if it meets specification. As practical matter, no small business is going to be willing to either incur the cost of testing the oil or of sending any off-specification oil to an incinerator. As a result, automotive maintenance facilities across the country will stop accepting DIY used oil and much of the used oil that for many years has been safely burned for heat in industrial furnaces, industrial boilers, utility boilers, and space heaters could end up being improperly disposed of on the ground or down the drain. In addition, service stations will lose their Superfund liability exemption.

Used oil from just one oil change can contaminate 1 million gallons of fresh water — a year's supply for 50 people. EPA should be doing all it can to increase the amount of used oil flowing into the legitimate recycling system instead of creating barriers to recycling.



The Real Truth About the "Do Not Call" Registry

Nothing is more irritating than someone calling to sell you pet insurance during dinner time or copier supplies during a big meeting. Getting that kind of call on your cell phone adds another level of obnoxiousness.

The recent "Do Not Call" scare revival comes at a time when families and businesses are increasingly dropping landlines in favor of cell phones. The National Center for Health Statistics found that one-quarter of households used only wireless phones in the second half of 2009.

What's True

1. The National Do Not Call Registry is real. It's managed by the Federal Trade Commission. Cell phone numbers can be registered. To register, call 888-382-1222 or visit donotcall.gov.
2. You will be charged for any incoming telemarketing calls. Assuming telemarketers got your cell number somehow and are calling you, it is treated like any other incoming call and charged according to your wireless service plan.
3. Telemarketers are required to respect the registry. They have 31 days to quit calling you after you register your number.

Cell phone numbers aren't going public this month or any other month. There is no huge directory of numbers that will be handed over to telemarketers. There is no five-year expiration. Originally, numbers were supposed to be renewed in the registry every five years. That went out the window in 2007 when the FTC announced that registrations will carry over indefinitely unless a number is reassigned, disconnected or the registrant takes the number off the list.

When Calls Keep Coming

There is a small catch in the Do Not Call Registry. According to the FTC, "A telemarketer or seller may call a

consumer with whom it has an established business relationship for up to 18 months after the consumer's last purchase, delivery, or payment — even if the consumer's number is on the National Do Not Call Registry. In addition, a company may call a consumer for up to three months after the consumer makes an inquiry or submits an application to the company. And if a consumer has given a company written permission, the company may call even if the consumer's number is on the National Do Not Call Registry."

For those reasons, you might want to think twice about giving out your cell phone number when you're doing business. Remember, you always have one weapon in your own personal do-not-call arsenal: asking telemarketers not to call you. Report violators through the Do Not Call Registry site.

So next time that alarming e-mail makes it into your inbox, hit delete and feel safe in the knowledge that your cell phone number is in good hands.



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SOGGDA SAFETY

THE MECHANICS OF LIFTING

BACK BASICS

Your back is made up of moveable bones called vertebrae, separated by “shock absorbers” called discs. Ligaments and muscles support your back and help keep it aligned in three balanced curves. You know your back is aligned correctly when your ears, shoulders and hips are in a straight line. Keeping your back’s curves in balance helps protect your back from pain and injury.



LIFTING: THE WRONG WAY...

Imagine trying to lift something that’s at the other end of a long pole. That’s what happens when you lift something by bending over at the waist. Your lower back is put under tremendous pressure, as it’s forced to carry both the weight of your body and the weight of whatever you’re lifting. It’s a prescription for disaster. You can hurt your back just bending down to pick a pencil up off the floor.

...THE RIGHT WAY

You can avoid overloading your back by using good lifting techniques. Bend at the knees and hug the object close to you as you lift. This way you keep your back in alignment and let the stronger muscles in your thighs do the actual lifting. You don’t have to extend your upper body and are able to maintain your center of balance. Never twist while lifting; instead, move one foot at a time in the direction you want to go and then turn with your leg muscles.



BEFORE YOU LIFT THAT LOAD..

Think about the lift. Is the load safe to lift on your own? If it’s big



or awkward, get help or use a mechanical lifting aid. Sure, it takes longer, but not as long as it takes to recover from a back injury. If you use safe lifting techniques, you’ll find lifting is easier and you can avoid back pain and injury.

When was the last time your insurance agent showed you how to **SAVE** Money

Think about it...then contact

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How it all began...

In ancient Israel it came to pass that a trader by the name of Abraham Com did take unto himself a young wife by the name of Dot. Dot com was a comely woman, broad of shoulder and long of leg. Indeed she had been called Amazon dot com. She said unto Abraham, her husband, “Why doth thou travel far from town to town with thy goods when thou can trade without ever leaving thy tent?”

Abraham did look at her as though she were several saddle bags short of a camel load, but simply said, “How Dear?” Dot replied, I will place drums in all the towns and drums in between to send messages saying what you have for sale and they will reply telling you which hath the best price. The sale can be made on the drums and delivery made by Uriah’s Pony Stable (UPS).

Abraham thought long and decided he would let dot have her way with the drums. Soon the drums rang out and were an immediate success. Abraham sold all the goods he had at the top price, without ever moving from his tent. But this success did arouse envy. A man named Maccabia did secret himself inside Abraham’s drum and was accused of insider trading.

Before long there were many others and they were called nomadic ecclesiastical rich dominican siderites, or NERDS for short.

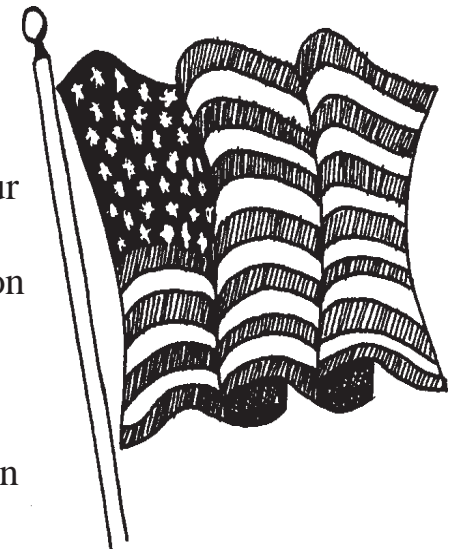
And Lo, the land was so feverish with joy at the new riches and the deafening sound of drums, that no one noticed that the real riches were going to the drum maker, one brother William of Gates, who bought up every drum company in the land. He insisted on making drums that would work only with Brother Gates’ drumheads and drumsticks.

Dot did say, “Oh, Abraham, what we have started is being taken over by others.” As Abraham looked out over the bay of Ezekiel, (or as it came to be known “EBAY”) he said, “ We need a name that reflects what we are.” Dot replied “ Young Ambitious Hebrew Owner Operators.” “YAHOO ” said Abraham and that is how it all began, and it wasn’t Al Gore after all.

Honoring Our Veterans

This Veterans’ Day, make it a point to honor veterans in your area by following some of these suggestions:

- ☞ Fly the American flag as a way to show your appreciation of their service to this country.
- ☞ Bring flowers or flags to a veteran’s gravesite or attend parades and ceremonies on Veterans’ Day.
- ☞ Send a note or visit veterans in a Veterans Administration medical facility.
- ☞ Support fund-raising events held by the local American Legion or Veterans of Foreign Wars.



Who Must Issue 1099-MISCs

1. Determine if you have a trade or business. If you are operating for the purpose of making a gain or profit, you have a trade or business.
2. Determine if you run a nonprofit organization, a taxable farmers cooperative, a government agency, or a trust of a qualified pension or profit-sharing employer plan. These are considered trades or businesses for 1099-MISC purposes.
3. Calculate if you paid \$600 or more during the tax year in the course of your trade or business to an individual or partnership. Professional fees to an attorney, doctor or other professional are included. Payments to corporations are included only if they are for medical, health care, legal or fishing activities.
4. Calculate if you paid \$10 or more in royalties.
5. Issue 1099-MISCs if you have or manage a trade or business and have paid \$600 or more to an individual or partnership (or certain corporations) or have paid \$10 or more in royalties.
6. Issue a separate 1099-MISC to each individual or partnership (or specific corporation).

Payments Requiring 1099-MISC

1. Determine that you paid \$600 or more in compensation for services rendered by a nonemployee to your trade or business. Include the gross amount of payments in box 7, including anything you paid the contractor for supplies and materials.
2. Determine that you paid \$600 or more in rent for office space, machines, equipment or land in the course of your trade or business. Write the amount in box
3. Do not include amounts paid to corporations or real estate agents.
4. Verify that your trade or business gave any prizes or awards to an individual who is not your employee. Include only amounts of \$600 or more. Put amounts in box 3. But don't report it if the prize was transferred directly to charity.
5. Verify that your trade or business paid \$600 or more in medical or health care payments to an individual, partnership or corporation. Put the amount in box 6.
6. Verify that your trade or business paid \$600 or more to an attorney or corporation for any legal services. Write the amount in box 7. If you cannot determine the amount paid that applies to legal

services, write the gross amount paid, even if less than \$600, in box 13 and put the letter A after the amount.

7. Determine if you paid \$600 or more in taxable fringe benefits to nonemployees in the course of your trade or business. Write the amount in box 7.
8. Determine if your trade or business paid \$600 or more in punitive damages. Write the amount in box 3.
9. Determine if your trade or business paid \$600 or more in director's fees. Write the amount in box 7.
10. Determine if your trade or business paid \$600 or more to a deceased employee's estate or beneficiary. There are some tricky rules on this one, so be careful and get some help. Write the amount in box 3.
11. Verify that you paid \$600 or more for your trade or business to purchase fish from an individual, partnership or corporation. Write the entire purchase cost in box 7.
12. Verify that you paid a share of fishing boat receipts to someone. The rules are quite tricky on fishing boats, so see a tax professional. The amount is written in box 5.
13. Verify that you paid royalties of \$10 or more in the course of your trade or business. Write the amount in box 2.

eHow.com

Tips & Warnings

- Do not send a 1099-MISC to someone when you have made a personal payment to him. An independent contractor to whom you have made a personal payment unrelated to your trade or business does not receive a 1099-MISC.
- Do not send a 1099-MISC to an employee. That is what a W-2 is for.
- An independent contractor receives a 1099-MISC only if you pay him in the course of your trade or business.
- A household employee who is not an independent contractor should be issued a W-2 by the employer. The employer must also fill out a Schedule H.
- If you pay someone as an independent contractor who is, in reality, an employee, you can be liable for penalties. Even worse, you can be liable for some of his taxes! An employee is to be paid using the system of a W-2, which includes withholdings for Social Security and Medicare taxes.



RED MARBLES



I was at the corner grocery store buying some early potatoes. I noticed a small boy, delicate of bone and feature, ragged but clean, hungrily appraising a basket of freshly picked green peas.

I paid for my potatoes but was also drawn to the display of fresh green peas. I am a pushover for creamed peas and new potatoes.

Pondering the peas, I couldn't help overhearing the conversation between Mr. Miller (the store owner) and the ragged boy next to me.

'Hello Barry, how are you today?'

'H'lo , Mr. Miller. Fine, thank ya. Jus' admirin' them peas. They sure look good.'

'They are good, Barry. How's your Ma?'

'Fine. Gittin' stronger alla' time.'

'Good. Anything I can help you with?'

'No, Sir. Jus' admirin' them peas.'

'Would you like to take some home?' asked Mr. Miller.

'No, Sir. Got nuthin' to pay for 'em with.'

'Well, what have you to trade me for some of those peas?'

'All I got's my prize marble here.'

'Is that right? Let me see it' said Miller..

'Here 'tis. She's a dandy.'

'I can see that. HmMMM, only thing is this one is blue and I sort of go for red. Do you have a red one like this at home?' the store owner asked.

'Not zackley but almost..'

'Tell you what. Take this sack of peas home with you and next trip this way let me look at that red marble'.. Mr. Miller told the boy.

'Sure will. Thanks Mr. Miller.'

Mrs. Miller, who had been standing nearby, came over to help me. With a smile she said, 'There are two other boys like him in our community, all three are in very poor circumstances. Jim just loves to bargain with them for peas, apples, tomatoes, or whatever. When they come back with their red marbles, and they always do, he decides he doesn't like red after all and he sends them home with a bag of produce for a green marble or an orange one, when they come on their next trip to the store.'

I left the store smiling to myself, impressed with this man. A short time later I moved to Colorado , but I never forgot the story of this man, the boys, and their bartering for marbles.

Several years went by, each more rapid than the previous one. Just recently I had occasion to visit some old friends in that Idaho community and while I was there learned that Mr. Miller had died.

They were having his visitation and knowing my friends wanted to go, I agreed to accompany them. Upon arrival at the mortuary we fell into line to meet the relatives of the deceased and to offer whatever words of comfort we could.

Ahead of us in line were three young men. One was in an army uniform and the other two wore nice haircuts, dark suits and white shirts...all very professional looking.

They approached Mrs. Miller, standing composed and smiling by her husband's casket. Each of the young men hugged her, kissed her on the cheek, spoke briefly with her, and moved on to the casket.

Her misty light blue eyes followed them as, one by one; each young man stopped briefly and placed his own warm hand over the cold pale hand in the casket.

Each left the mortuary awkwardly, wiping his eyes.

Our turn came to meet Mrs. Miller. I told her who I was and reminded her of the story from those many years ago and what she had told me about her husband's bartering for marbles. With her eyes glistening, she took my hand and led me to the casket.

'Those three young men who just left were the boys I told you about. They just told me how they appreciated the things Jim 'traded' them.

Now, at last, when Jim could not change his mind about color or size.....they came to pay their debt.'

'We've never had a great deal of the wealth of this world,' she confided, 'but right now, Jim would consider himself the richest man in Idaho.'

With loving gentleness she lifted the lifeless fingers of her deceased husband. Resting underneath were three exquisitely shined red marbles.

The Moral: We will not be remembered by our words, but by our kind deeds. Life is not measured by the breaths we take, but by the moments that take our breath....

Today I wish you a day of ordinary miracles ~ A fresh pot of coffee you didn't make yourself...An unexpected phone call from an old friend...Green stoplights on your way to work...The fastest line at the grocery store...A good sing-along song on the radio...Your keys found right where you left them.

Here's to making the most of 2011!



Why Now's the Time to Convert to a Roth IRA

Congress is still months away from deciding whether taxes will go up next year, and if so, by how much. But one tax-saving strategy for 2010 already seems like a great deal: converting your traditional IRA savings plan to a Roth IRA.

Why would you want to convert to a Roth? First, a little background on the two types of IRAs. A traditional IRA lets you make tax-free contributions to a savings account, but then you must pay regular income tax when you withdraw the money and any interest it has earned. With a Roth IRA, in contrast, you contribute after-tax dollars. But all of your withdrawals from a Roth are tax-free.

Because all of the earnings in the account accumulate tax-free, a Roth is a better deal than a traditional IRA. In addition, a [traditional IRA requires you to take minimum distributions](#) from the account when you turn 70.5 years old, but you never have to take any money out of a Roth, meaning you can leave it tax-free to heirs.

Unique Options Available Only Now

Why is 2010 so great for Roth conversions? Two counts, really. For one thing, Congress finally removed the upper-income limit on doing conversions. Until now, if you

had adjusted gross income of more than \$100,000, you didn't qualify. But starting this year, you can make the conversion no matter what your income level.

The other great advantage is that if you make the conversion before year-end, Congress has given you some unique options. You can take the money from the traditional IRA conversion as income in 2010 and pay the tax owed, which some tax advisers are considering because taxes are likely to go up next year.

But you also have the option of taking the income and dividing it between 2011 and 2012, so you'll have to pay tax on only half the total amount each year. So if you converted a \$100,000 traditional IRA in 2010, you could take it as \$50,000 in income in 2011 and \$50,000 in 2012.

Does Age Matter?

How to decide whether it's advantageous to make the conversion? Casey Mervine, a financial consultant at Charles Schwab in Torrance, Calif, says there are lots of factors to consider. But it really comes down to how long you have to earn back the money you must pay in taxes up-front.

"With the compounding you have over 20 years, it gets much more advantageous when you calculate the numbers for a person

who is younger than for someone who is older," Mervine says. So, a 40-year-old is likely to earn much more than a 60-year-old, offsetting the tax.

But James Lange, a certified public accountant in Pittsburgh and the author of *The Roth Revolution: Pay Taxes Once and Never Again*, says converting can also be advantageous for people older than 60. "It is a huge misconception that older IRA owners shouldn't make the conversion," Lange says. "I often recommend Roth IRA conversions to retirees and seniors."

Lange says the key question is not how much you have in total dollars, but how much you have in purchasing power.

Mathematical Proof

He gives the following example: An investor has \$100,000 in a traditional IRA and \$25,000 in the bank. If he takes the money out of the IRA and uses the \$25,000 to pay the taxes due, he is left with \$100,000 to spend. But if he converts the traditional IRA to a Roth IRA using the same funds, he will be left with \$100,000 in an account that generates income tax-free forever.

"It doesn't matter if the person is 40-years-old or 60 or even 80, I can prove mathematically that given reasonable assumptions over time, the person who makes the conversion to a Roth IRA is going to have more purchasing power than someone who doesn't," Lange says.

Still, Lange says, conversions aren't for everyone, especially people whose incomes are likely to go down in the years ahead or for someone who needs to spend

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Why Now's the Time to Convert to a Roth IRA Continued

the money in the near future.

Convert Your 401(k), Too

Mervine points out that a conversion makes sense only for investors who have sufficient money outside the IRA account to pay the taxes due. For example, if a 40-year-old converts a \$50,000 in a traditional IRA to a Roth and uses IRA funds to pay the taxes due, he'll have to pay taxes not only on the \$50,000 withdrawal but also on the \$15,000 withdrawn to pay the taxes. In addition, there's a 10% penalty for early withdrawal on the money used to pay the tax.

Accountants have figured out that using IRA money to pay the taxes results in what amounts to a break-even transaction, so it doesn't make sense to convert unless you can pay the tax with after-tax dollars held outside the IRA.

Another interesting development in 2010 is that Congress last month for the first time allowed for converting traditional 401(k) savings accounts held at employers to Roth 401(k)s. The same logic applies to these accounts: Given the widespread expectation that taxes will increase next year, making the conversion this year could save substantial money.

For example, if you're in the top tax bracket of 35% and you convert a \$1 million 401(k) this year, you'll pay \$350,000 in taxes. But if you wait until 2011 and the top tax rate goes up to 39.6% — as is currently scheduled when the Bush tax cuts expire — then you'd pay \$396,000, or \$46,000 more.

Just another reason to consider converting to a Roth retirement fund this year.

Insurance Tax Credit

Across the country, small businesses are talking to their accountants about a hefty tax credit that could make health insurance a little more affordable.

Six months after sweeping health care reform was enacted, the cost of health insurance remains one of the most pressing issues facing small businesses. Premiums typically run 18% higher for small businesses than for larger companies.

The health care law called for the expansion of state-run exchanges aimed at helping small businesses find affordable coverage. But not until 2014. To bridge the gap, the law also established a slew of significant tax credits to small firms starting this year.

How it works: Almost 17 million people work for businesses that are in firms that will be eligible for the tax credit between now and 2013.

The credit is phased, and the largest one is offered to the smallest of small businesses. More than 4 million firms will be eligible for the credits.

To get the credit, a business must have fewer than 25 full-time workers or the equivalent (the hours worked by part-timers count), pay an average annual wage of less than \$50,000 and cover at least half the cost of health insurance premiums for their workers.

There are a few additional restrictions, including caps on how high qualifying premiums can be. In addition, the credit works on a sliding scale: Businesses with fewer than 10 employees and average wages less than \$25,000 can max it out, while larger firms and those with higher payrolls collect a reduced credit.

For 2010 through 2013, the tax credit covers up to 35% of the money a qualifying business spends on its health insurance premiums. In 2014, the top tax credit bumps up to 50%. The credit is available for a maximum of six years: 2010 through 2013 and for any two years after that.

For-profit companies use the credit to offset the federal income taxes they pay for the year. Any unused portion of the credit can be carried forward for up to 20 years to reduce future taxes. Tax-exempt organizations are eligible for a refundable tax credit, although the percentage credit they get is slightly smaller.

Looking ahead: The tax credits are a temporary solution until small companies can shop on insurance exchanges.

States will start implementing the insurance pools in 2014, but it could be two more years until every state has an exchange set up to accommodate businesses with up to 100 employees.

For businesses with 25 or fewer employees, the tax credits are a big help. But bigger firms will have to wait for the exchanges.



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