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HOW TO SET UP TRUST ACCOUNT FOR CAREGIVERS & AGENCY

By Victor Sy, CPA, MBA

If you own a home care or home health agency and you treat your workers as independent contractors, consider changing them over to employees. I know you are going to say - we cannot compete in this industry if we do that, we won't be able to find workers, we won't be able to pay payroll taxes. Well, just understand the risk of a payroll tax audit that reclassifies workers from independent contractors to employees. You will be assessed employment taxes that should have been withheld. Factor in penalties and interests. Compute all these over three years. The diagnosis is gloom - your business may not survive such an assault. Very few do.

If you decide to continue treating caregivers as independent contractors, at least learn how to protect yourself and your company. One way, actually the only way, is to follow the provisions of Unemployment Insurance Code Section 687.2. This [relief harbor requires the use of a trust account](#).

Here are 10 tips to open and use a trust account:

1. Open a new checking account to be used as a trust account.
2. Bring your corporate articles, FEIN, and Statement of Information filed with the Secretary of State.
3. Do not tell the bank's new account staff that you're opening a trust account because you are not. Banks look at "trust" accounts from a different perspective and will ask for trust documents.
4. Use the following name on the checks:
 - A. First line – Your company name
 - B. Second line – Caregivers and Agency Account.
5. Choose a color other than the color of your current general account checks to avoid confusion.
6. Use four digit numbers starting with 1001 to save keypunching strokes (talk about detailed advice).
7. Deposit all receipts from patients into this new trust account.
8. Pay caregivers from this trust account (not from the general account).
9. Pay your referral fee from this trust account for deposit into the general account.
10. Pay corporate business expenses from the general account only (not from the trust account).

It is critical that you understand the significance of a trust account. It is critical that you follow instructions. The use of a trust account could spell the difference between winning and losing employment tax audits, between keeping and losing your business and personal assets.