

## Tax Research Case 1

Brian Bohner resided in Indianapolis, Indiana during 1997 and 1998. While living in Indianapolis Brian worked for M&M Custom Games as a software programmer. During the first 11 months of 1997 M&M withheld income, social security, and Medicare from his wages. For the last month of 1998 and all of 1998 M&M did not withhold any Federal taxes or other employment-related taxes from his wages. For 1998 Brian was issued a Form 1099 Miscellaneous, rather than a W-2, which reflected \$20,373 of income.

Brian did not file a Federal income tax return for 1998. Subsequently, the IRS informed Brian that he had received self-employment income in the amount of \$20,373 and that he was liable for Federal income tax, as well as self-employment tax. After a protracted negotiation with the IRS, Brian was able to get them to agree that he was an employee for 1998 and did not owe self-employment tax for the period. However, the IRS still maintains that Brian owes \$3,333 dollars in federal tax for 1998 and \$833 of penalties for failing to file a timely return. Brian claims he wasn't required to file a return because of what he read in IRS Publication 15, an excerpt of which is provided below:

"You [meaning the employer] will be liable for Social Security and Medicare taxes and withheld income tax if you do not deduct and withhold them because you treat an employee as a nonemployee. See Internal Revenue Code 3509 for details."

From this statement Brian concluded that his employer was liable for all taxes and that made the filing of Brian's tax return unnecessary. In addition, because his employer was liable for the taxes, M&M was also liable for the penalties associated with the timely return issue. Brian has come to you for advice about whether to pursue this matter further or pay the deficient tax and penalties.

Required:

Prepare a research report concerning Brian's problem. Your report should be written as though it were being provided to your supervisor. Your submission may be no longer than 3 pages double-spaced with 1-inch margins on all sides with no less than an 11 pt font. Included in your response should be a short summary of the facts, a statement of the issue(s), a summary of the sources from which you drew your conclusion (Review Chapter C1 for the appropriate citation format), and finally your conclusion, clearly stated.

**Points will be deducted for inappropriate citation formats, insufficient citations, incorrect conclusions, and unprofessional submissions, excess length, or formatting that does not conform to the format stated above. In particular, 2 full points will be deducted for failing to identify yourself in the memo to your supervisor. Your supervisor's name is W. Alrus, Taxman.**

Finally, your submission must be in a Word or WordPerfect file with the extension ".doc" and the file name should be your first initial and last name. For example, "TaxManW.doc" would be an appropriately named file for submission by your supervisor.