

Repeal of 1099 Corporate and Rental Property Reporting May Be Imminent

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On April 14, 2022, the President signed H.R. 4, repealing previous legislation that required expanded, mandatory reporting of payments to suppliers of goods and services. Under previous legislation, 1099 reporting was expanded, with a two year phase-in wherein there was required to be reported to the Internal Revenue Service (IRS) payments totaling \$600 or more (i) by rental property owners, not part of a trade or business, and (ii) by all businesses to corporations (not tax-exempt). The repeal does not change the 1099 reporting required by businesses to non-corporate providers of goods and services. H.R. 4 will also increase, for taxable years ending after December 31, 2013, the advance applicable dollar amount of the tax credit for health care premium assistance for taxpayers whose household income is less than 400% of the poverty line.

Previous legislation had expanded the duty to provide Form 1099-MISC reporting to providers of goods and services. First, the Small Business Jobs Act of 2010 required rental property owners, whether or not in a trade or business, beginning with the 2011-year to collect from all vendors/suppliers information and also to send a 1099-MISC if the vendor provided \$600.00 or more in services or property.

Second, legislation provided that effective for the 2012-year, all businesses would be required to report payments made to corporate entities, and not just to individuals, partnerships and other non-corporate entities.

Not repealed, however, are the penalties. Under the Jobs Act, the cost of noncompliance greatly increased. A filed Form 1099-MISC if inaccurate is subject to a penalty nearly double that imposed under previous law, wherein each erroneous form may trigger a \$100.00 penalty, and a higher \$250.00 penalty for intentional noncompliance, e.g., no 1099-MISC is filed. Given these increased penalties, those subject to the ongoing reporting requirements should endeavor to collect completed Form W-9s from every vendor to properly obtain address and identification information.

Example: Able Fixer rents out two houses and pays gardener Lilly Greenthumbs \$30 a month per property. Prior to H.R. 4, Able Fixer would have to report for 2011 to Lilly \$720.00 on a Form 1099-MISC, which includes Lilly's address and correct social security number. Failure to report, or failure to put down a correct identification number could result in a \$250 penalty per non-filed 1099-MISC. Because H.R. 4 was enacted, no filing will be required for 2011.

Both the Form W-9 and instructions are available on <http://www.irs.gov>. If you have any questions on information penalties, or have been subject to a penalty examination, our office may be able to assist you with compliance issues to minimize your penalty exposure.