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BURDENSOME 1099 REPORTING RULES REPEALED!

By Victor Sy, CPA

On April 5, the Senate approved the Comprehensive **1099 Taxpayer Protection Act** of 2011 (“The 1099 Act”) that repeals the expanded Form 1099 information reporting rules. On April 14, President Barack Obama signed legislation repealing the expanded troublesome rules. Let’s discuss the old rules, the expanded rules that we despise, and the new rules that we welcome.

The Old Rules:

Original information reporting rules required 1099s to be issued for payments totaling at least **\$600** in a single calendar year to a single recipient. Reporting on **Form 1099** was required only when the payor was considered to be engaged in a **trade or business**. Payments to **corporations were exempted** from the 1099 rules.

Expanded 1099 Rules For Business:

In March 2010, the Health Care Act expanded the 1099 reporting requirements to include all payments from businesses aggregating \$600 or more in a calendar year to a single payee, **including corporations and the purchase of any type of property**. There was an uproar from the business community and the real estate rental industry on this recordkeeping and reporting nightmare.

Expanded 1099 Rules For Rental Real Estate:

Before 2011, 1099 reporting requirements applied only to payments made in the course of a trade or business. Payments made in a **passive investment activity such as real estate rental were not subject** to these requirements. The Small Business Jobs Act of 2010 expanded the definition by providing that any person receiving **rental income from real estate (landlords) would be considered to be engaged in a trade or business** and, therefore, would be subject to the same 1099 reporting requirements that apply to businesses. Accordingly, landlords would be required to issue Form 1099s to **gardeners, plumbers, painters, electricians, roofers** and other service providers.

New 2011 Act Repeals Expanded Rules:

The 1099 Act **repeals** the onerous expanded rules:

1. For payments made to **corporations and payments made for the purchase of property**.
2. To **landlords** who are not otherwise considered to be engaged in a trade or business of renting property. As a result, landlords making payments of \$600 or more to a service provider will **not** be required to file Form 1099-MISC.

But Increased Penalties Not Repealed:

The 1099 Act did not repeal the increase in the information reporting penalties that were mandated by the Small Business Jobs Act. The first-tier penalty for failure to timely file an information return was increased from \$15 to **\$30**, and the calendar-year maximum from \$75,000 to \$250,000. The second-tier penalty was increased from \$30 to **\$60**, and the calendar-year maximum from \$150,000 to \$500,000. The third-tier penalty was increased from \$50 to **\$100**, and the calendar-year maximum from \$250,000 to \$1,500,000. For small business filers, the calendar-year maximum increased from \$25,000 to \$75,000 for the first-tier penalty; from \$50,000 to \$200,000 for the second-tier penalty; and from \$100,000 to \$500,000 for the third-tier penalty. The minimum penalty for each failure due to intentional disregard increased from \$100 to **\$250**.

As a result of the repeal, the 1099 reporting rules **revert back to the old rules** - as if the expanded information reporting requirements had **never been enacted**. It was like a bad dream for businesses and landlords, but it got us excited. It brought some spice to our daily routine of running a business and listening to tenant complaints. ☺