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STRICT NEW 1099 REPORTING RULES AFFECT RENTAL INDUSTRY

By Victor Sy, CPA

The Small Business Jobs Act of 2010 includes a wide-ranging assortment of tax changes generally affecting small business. To offset a portion of the cost of the various tax breaks and incentives in the Act, Congress beefed up certain reporting requirements and penalties, hoping that the added requirements will generate revenue and lead to more effective tax collection. Here are the details of the new reporting requirements.

Reporting required for rental property expense payments:

For payments made after Dec. 31, 2010, the new law requires those receiving rental income from real property to file information returns with IRS and service providers reporting payments of \$600 or more during the year for rental property **expenses**. Exceptions are provided for individuals renting their principal residences (including active members of the military), taxpayers whose rental income doesn't exceed an IRS-determined minimal amount, and those for whom the reporting requirement would create a hardship.

Increased information return penalties:

For information returns required to be filed after December 31, 2010, the penalties in the tax code for failure to timely file information returns to IRS are increased. These penalties apply per 1099 so they can really add up.

For example, the first-tier penalty for filing not more than 30 days late increased from **\$15-\$30**, and the calendar year maximum increased from 75,000-\$250,000. The penalty for filing a 1099 more than 30 days late and before August 1 increases from **\$30-\$60**, with a maximum of \$500,000. The penalty for filing after August 1 increases from **\$50-\$100, maximum \$1.5 million**. For small filers, the calendar year maximum is increased from 25,000-\$75,000 for the first-tier penalty. The minimum penalty for each failure due to intentional disregard will be increased from **\$100 to \$250**. The penalties for failure to file information returns to payees will be similarly increased.

Analysis:

- The IRS requires 1099s to be filed by persons like you engaged in trade or business who make certain payments of \$600 or more.
- Therefore, landlords making payments of \$600 or more to a service provider are required to provide an information return to the IRS and the service provider.
- Service providers can include **plumbers, painters, roofers, carpenters, handymen, cleaning ladies**, or accountants, among others.
- The information return is typically Form **1099-MISC**.
- Exempted from this requirement are individuals renting their principal residence on a temporary basis.

Accountants and rental industry groups are fighting this law. In the meantime, keep good records.

Call our office at 626-744-0200 for more details about 1099 requirements as well as rental income and deductions, first month rent and security deposits, depreciation, 1031 exchanges and similar rental issues. Please visit our website at www.victorsycpa.com and go to 300 Tax Tips A-Z.