

Federal 1099 Reporting

Federal Health Care Law Imposes Significant Tax Reporting Burden on Businesses

Summary

Background

Currently, businesses are required to issue 1099 forms to individuals with whom they contract for services, if the aggregate amount is more than \$600. Due to the passage of the Patient Protection and Affordable Care Act (federal health care law) in 2010, however, this reporting requirement will soon change drastically. Starting in January 2012, businesses will have to issue a 1099 form to any individual or corporation that is not a tax-exempt entity, if the annual payments to the individual or corporation for services and/or property exceeds \$600.

The addition of “corporations” to the list, as well as the inclusion of “property” significantly increases the number of 1099 forms that businesses will have to issue. For example, a small business owner will have to issue a 1099 form to any vendor from whom it purchases office supplies, assuming the amount of the purchases for the year exceed \$600 and the vendor is not a tax-exempt entity. If the individual or corporation fails to provide the business with its taxpayer identification information so a 1099 form can be issued, then the business must take on the additional burden of withholding 28 percent of future fees and/or payments to that individual/corporation.

The stated purpose of this heightened reporting requirement for businesses is to generate revenue to cover the costs associated with the health care reform. The Joint Committee on Taxation estimated that this new requirement would raise \$17 billion from 2012 through 2019 as it would capture a large percentage of income that currently goes unreported. Conversely, it creates a huge administrative burden on businesses to keep track of all purchases and to obtain taxpayer identification information.

Current Action

The Internal Revenue Service (IRS), in recognition of the burden this expanded reporting requirement will create for businesses and itself, issued regulations to minimize the impact and has requested public comments for developing further regulations. In August 2010, the IRS issued final regulations aimed at reducing or eliminating duplicative reporting. According to these regulations, any transactions made by a credit card, debit card or a third-party network that already must be reported by the bank or processing entity will not have to be reported by a business due to the expanded 1099 reporting requirements. In July 2010, the IRS also asked for public comments regarding (1) the appropriate scope of terms utilized in the new law; (2) whether reporting requirements should apply between affiliated corporations; (3) the appropriate time and manner for businesses to report to the IRS; (4) any modifications to existing rules regarding obtaining taxpayer identification information; and (5) any consequences for missing taxpayer identification numbers. The opportunity to submit public comments on these issues closed at the end of September 2010.

In addition to IRS regulations, various members of Congress have introduced several bills to address the burden of this heightened reporting requirement.

- In April 2010, California Representative Dan Lungren (R-Gold River) introduced H.R. 5141, “Small Business Paperwork Mandate Elimination Act,” to repeal the new reporting requirement. On September 15, 2010, Representative Lungren filed a motion to discharge committee review of H.R. 5141.
- In July 2010, H.R. 5982 (Levin; D-Michigan) and S. 3578 (Johanns; R-Nebraska) were introduced to repeal the reporting requirements. H.R. 5982 never made it out of the U.S. House of Representatives. S. 3578 was sent to the U.S. Senate Finance Committee.
- Senate amendments to minimize the reporting requirements also were proposed for H.R. 5297 (Frank; D-Massachusetts), which ultimately were unsuccessful.

The U.S. Chamber of Commerce organized a national letter to Congress, demanding repeal of the new 1099 reporting requirement. The letter was signed by numerous businesses and organizations across the country, including the California Chamber of Commerce.

Following the 2010 midterm election, President Barack Obama acknowledged at a November 3, 2010 press conference that the revised 1099 reporting requirements are “too burdensome” for small businesses and “probably counterproductive.” Shortly after President Obama’s comment, U.S. Senator Max Baucus (D-Montana), chair of the U.S. Senate Finance Committee, introduced S. 3946, “Small Business Paperwork Relief Act,” to repeal the 1099 reporting requirement. Senator Baucus and Senator Mike Johanns also proposed amendments to S. 510 (Durbin; D-Illinois) to repeal the 1099 reporting requirement. Two efforts to waive U.S. Senate rules to allow consideration of the amendments fell short of the votes necessary for passage on November 29, 2010.

**CalChamber
Position**

The CalChamber believes Congress can find better alternatives to help cover the costs of the new health care law than burdening businesses that already are struggling in this economy. The CalChamber will continue to support efforts to repeal the new 1099 reporting requirement.

**Reasons for
Position**

- The new 1099 reporting requirement created by the Patient Protection and Affordable Care Act will create an overwhelming administrative burden on businesses, not to mention the IRS.
- The amount of time and energy businesses will have to spend in tracking purchases and obtaining taxpayer identification, combined with the resources utilized by the IRS to process all these 1099 forms, as well as audit such information, seems significantly disproportionate to the alleged benefit the reporting will provide.
- Even both parties now seem to agree that this heightened reporting requirement imposed on businesses may not be the best idea for generating revenue.

**Staff
Contacts**

Jennifer Barrera and Mira Guertin

Policy Advocates

jennifer.barrera@calchamber.com

mira.guertin@calchamber.com

California Chamber of Commerce

P.O. Box 1736, Sacramento, CA 95812-1736

(916) 444-6670

www.calchamber.com

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