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Repeal Of The New Form 1099 Reporting Requirements Enacted In 2010

The 2010 Health Care Act and the Small Business Jobs Act of 2010 included provisions that would have significantly increased the number of Information Returns (Form 1099-MISC) that would be required to be filed. On April 14, 2011, the President signed into law the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayment Act of 2011 which retroactively repealed the additional Form 1099 reporting requirements included in the 2010 Health Care Act and the Small Business Act of 2010.

2010 Health Care Act

The 2010 Health Care Act included two provisions that would have placed new reporting requirements on businesses already required to file Form 1099-MISC.

1. First, in addition to reporting payments for rent, services, etc., businesses would have been required to issue Form 1099-MISC when they made payments in the course of a trade or business to a person in consideration for **property**. Property included a wide variety of items, such as office supplies, gasoline, and even inventory purchased for resale. They would have been required to issue a Form 1099-MISC to a person if the aggregate of all such payments to the person during a calendar year for rent, services, and **property** totaled \$600 or more.
2. Second, the definition of a "person" was amended to include corporations. Therefore an information return (Form 1099) would have been required to be issued for payments made in the course of a trade or business to a person (including a corporation) for rent, services, and property if the aggregate of all payments to such person during a calendar year totaled \$600 or more.

These changes to the information return reporting requirements would have become effective for payments made after December 31, 2011

Small Business Jobs Act of 2010

The Small Business Jobs Act of 2010 included a provision that treated (for Form 1099 reporting purposes) a person receiving rental income from real estate as being in a trade or business and subjected them to the same Form 1099 reporting requirements as imposed on other persons engaged in a trade or business. This change to the information return reporting requirements would have become effective for payments made after December 31, 2010, and such persons would have been subjected to the requirements imposed by the provisions of the 2010 Health Care Act effective for payments made after December 31, 2011.

The repeal of these provisions reverts the Form 1099 reporting requirements back to the 2010 rules. Prior to the enactment of the 2010 Health Care Act and the Small Business Jobs Act of 2010, Form 1099-MISC reporting was generally required with respect to payments made in the course of a trade or business (which did not include the activity of renting real estate) to another person (which did not include corporations) for rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, or income. Reporting was required only when the aggregate of such types of payments made to an individual totaled \$600 or more during a calendar year.

Please contact us if you would like to discuss Form 1099-MISC or other types of Form 1099 reporting requirements.

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