

## **Title: 1099 forms required for Goods and Services - Starting in 2012**

Amended provisions of the Section 9006 of the **Patient Protection and Affordable Care Act** as incorporated in the health care bill by President Obama will sound like a '**compliance nightmare**' for a lot of tax payers especially small businesses.

**The bad news is:** Implementation of Form 1099 is on course and will come in to effect from the first day of year 2012. Congressional efforts to repeal the 1099 tax reform law took a beating when a request for repeal was recently rejected (for the second time) in the senate. This was the last vote on the contentious issue of compliance to Form 1099 reporting and leaves only 1 year i.e. 2011, for deliberations before this law actually comes in to effect.

Starting 2012, gear up to **submit 1099 tax form** for any corporate or individual paid in excess of \$600 in lieu of goods or services transacted during a tax year. Tax compliance costs are set to skyrocket and put an additional burden on small business owners.

### **Who's talking?**

"It defies description except to say that it's one more overbearing government intrusion on free enterprise in our country," said **Senator Kay Bailey Hutchison**, Republican from Texas, in urging repeal of the provision.

"This paperwork burden is only justifiable if you assume that nearly all businesses are cheaters," says **California Republican Dan Lungren**. The bill would force "every single businessperson to become an IRS agent." added Lungren.

"Small businesses are the backbone of our economy in my home state of Montana and across the country, and they need to focus their efforts on creating good-paying jobs - not filing paperwork." said **Max Baucus**, Chairman of the Senate Finance Committee and a Democrat Senator from Montana.

"Businesses in Louisiana and across the country have made it clear that expanded Form 1099 reporting is not something they can handle, said **United States Senator Mary Landrieu**. She went on to add "Placing another regulatory burden on the very businesses that we are counting on to create jobs is just not smart. We have taken some important steps this year to improve the economic outlook for small businesses. I am committed to reducing regulatory burden for them when I can."

## What is a Form 1099?

In the United States, income earned during the calendar year (1-January to 31-December) is reported with the Internal Revenue Service (IRS) using 1099 form. There are different variants of this form depending on the nature of the taxable income. It is legally binding on every tax payer to file his information return using the Form 1099. Usually three copies are prepared; one each for the payer, payee and the IRS.

## W-9 Information

Vital information is collected by companies through a W-9 form which is filled by their contractor or freelancer. This information collected on the W-9 is later used to fill out the 1099 form which details earnings from such contractors/freelancers. Typically, the form is never sent to the IRS but retained by the company filing the tax return for verification purposes and includes vital information such as the Name, Address, and Taxpayer Identification Number (Employee Identification/Social Security Number) which is then keyed back in to the Form 1099.

## W-9 – Due Diligence

Do you hold checks till W-9 is complete and turned in?

**Well, if you don't you better start doing it.**

There is a slim chance of you getting the vital W-9 information after you clear your vendor dues. It is better to be safe than sorry. **Hold those checks** and do not clear payments till your vendor comes out with vital information such as Name, Address, EID or SSN which would eventually be required for Form 1099 filing.

Form W-9 in PDF format is available for a free download from the [IRS website](#).

**Backup Withholding** – Well, there can come up a situation where a business refuses to issue the W-9 form when asked. In such a scenario your company is expected to do a 28% backup withholding of the payment which is due. This is a good enough action on your part which usually ensures compliance in a matter of minutes.

## Implications of the Revised Form 1099 reporting from 2012

What are the implication of the new Form 1099 reporting, starting 2012?

**Suppression of the Middle Class** - There has already been a lot of hue and cry over the new amendment in the health care bill which will make it mandatory for you to file a 1099 form with the IRS if you pay

\$600 or more to any corporation or individual in return for goods or services. The U.S. Government under the leadership of President Obama, it seems is passing on the message: “It is my Way or the Highway”. There is no room left for a repeal this year as the motion was already defeated twice in the senate. The middle class is set to face the heat from 2012 as additional expenses would have to be incurred to ensure compliance to this ‘draconian law’, as some experts have put it.

**Auditing Nightmare** – Some valid questions being asked at this time: **how will the IRS manage auditing such voluminous number of 1099 forms?** Ramping up resources, a plausible alternative to that; **is it not an unavoidable misuse of the taxpayer money?** It seems these serious ramifications were not considered before incorporating this provision to Section 9006.

**Fines for Non-Compliance** – Stiff penalties are in place, if for any reason you forget to comply or intentionally not comply with the new Form 1099 reporting which starts in 2012. A fine of \$50 for every such misreporting is already proposed and can reach up to a total \$100,000 for small businesses. You fail to provide your contractor (individual, company or freelancer) with a statement, get ready to shell out \$50 for every such statement you fail to share. If it turns out that there was a deliberate misconduct on your part to file a Form 1099, you are liable to an imprisonment of up to one year and/or a fine of \$25,000.

**Avalanche of Paperwork** - With the new 1099 reporting w.e.f. the year 2012, small business owners will have to bear the brunt of additional paperwork to comply with the new provisions of the healthcare bill. Can you imagine a small business with only 5-10 employees, running helter-skelter and incurring phenomenal costs on account of paperwork? This seems to be a not well-thought out amendment which most certainly failed to factor-in the sentiments of small business owners. Additionally, more than 250 such returns will have to be filed electronically and this would again be an administrative burden especially for small businesses.

## **The Road Map Ahead**

How you should gear up to comply?

You will have no option but to comply with the new amendments in the healthcare bill.

**Time is of Essence here** and you still have enough time to make internal adjustments to ensure compliance.

Here is what you can do to comply to Form 1099 reporting starting 2012:

- **Fine tune** your accounting system (manual or software) to ensure you have procedures in place to issue Form 1099 for every such vendor transaction exceeding 600 USD.

- **Do not forget** to obtain the Taxpayer Identification Number (TIN) from your vendor. Social Security Number or the Employee Identification Number usually suffices as a requirement for a TIN.
- Put in a procedure for every vendor to **fill-out the W-9 form** irrespective of the volume of transactions carried out. This practice would especially help out small business with not so strong accounting staff at their disposal. It is the information received through the W-9 Form which will eventually help you file your Form 1099 with the IRS on time.
- Have **strong checks and balances** in place to ensure compliance. There are heavy fines in place for non-compliance; you do not want that additional financial burden on you. Though, an expensive proposition it is best advised to take help from a quality bookkeeping firm to ensure compliance to the new norms starting 2012.

### **Conclusion:**

Small businesses must up the ante and continue with their pressure on Congress for a possible repeal. It is the small business owners who are set to be the biggest casualties if these provisions are finally implemented in January 2012.

There is a serious need to re-examine the amendments and a possible repeal in the year 2011. The underlying tone to this new proposal is that the government wants to arrest the alarming trend of unreported income which sounds a '**noble idea**'. However, a serious thought needs to be in place to identify the right culprits here. A struggling small business which is already under the burden of a wayward economy should not be the target of such provisions.

**Picture This:** Authentic [media reports](#) have estimated the bill of President Obama's recent 3-day visit to India at a staggering **\$200 million per day**. Going by the 'noble idea principle', is it time for the Senate to cap the Presidential budget as well?

Is anyone listening in D.C.?