

Expanded Tax Information Reporting Requirements Have Been Repealed by Congress

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In our recent firm newsletter we reported that some significant changes had been made to the Federal tax rules relating to annual information returns (Form 1099). Congress has now reversed course and repealed these changes.

Before these changes were made, the original tax information reporting rules generally required that certain payments made to a single recipient totaling at least \$600 in a single calendar year had to be reported to the IRS. Reporting on Form 1099 was required only when the payor was considered to be engaged in a “trade or business” and made the payment in connection with that trade or business. The type of payment that most commonly triggered the reporting requirement was payment for services. There were a number of exemptions from the reporting requirements under prior law, notably payments to corporations.

The original reporting rules were changed by two tax laws- the Small Business Jobs Act of 2010 (SBJ Act) enacted in September 2010, and the Patient Protection and Affordable Care Act (PPACA Act) enacted in December 2010.

For payments made after 2010, the SBJ Act expanded the reporting rules by treating a person who is receiving rental income from real estate as engaged in a “trade or business” for information reporting purposes. In particular, a landlord making payments in a single calendar year of \$600 or more to a service provider (for example, a painter or plumber) in the course of earning rental income would have to provide an information return to the IRS.

For payments made after 2011, the PPACA provided that information reporting would be required for payments made to all businesses, including corporations (which had previously been exempt from the reporting requirements), and that these rules would also apply to payments for the purchase of goods as well as for the payment for services.

By recently passing the “Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011,” Congress has now retroactively repealed the expanded Form 1099 information reporting rules which were included in both the SBJ Act and the PPACA Act. In other words, the tax information reporting rules have effectively reverted to the way they read before enactment of the SBJ Act and the PPACA Act.

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