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Need help with all these changes? Call us and we'll be happy to discuss them with you.

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New Reporting Requirements for Owners of Rental Properties

Last month, we provided a summary of the many provisions from the Small Business Jobs Act of 2010 that President Obama signed into law on September 27, 2010. This month, we are going to take an in-depth look at one of those provisions: the new requirement for rental property **owners** to prepare and file Forms 1099-MISC.

The 1099 requirements have been in place for a long time for other types of businesses. A 1099 is issued by the payee to the payer and a copy is sent to the IRS at the end of the year to ensure that income and deductions are being adequately recorded by all parties for tax purposes. Therefore, the new provision is considered to be a revenue raiser to offset some of the tax cuts included in the Small Business Jobs Act of 2010.

Form W-9, Request for Taxpayer Identification Number and Certification, is used to collect the information needed to complete the Form 1099. **If you do not get a W-9 at the time that services are rendered and payment is made, it may be difficult to find the service provider at a later time.** See below for additional discussion.

When Is Reporting Required?

If you own rental property and you make *cumulative* payments of \$600 or more to a service provider, then this provision applies to you. Service providers include, but are not limited to:

- gardeners
- people who perform repair work
- bookkeepers

There are exceptions for individuals who show that the reporting requirement will be a "hardship" and individuals who only receive "minimal" rental income. These exceptions are yet to be defined by the IRS, but no doubt will be very limited. There is also an exception for members of the military or employees of the intelligence community who rent their principal residence on a temporary basis.

The new reporting requirement for rental property owners applies to payments made after December 31, 2010. Therefore, 2011 payments will be required to be reported by January 31, 2012 (although you may choose to issue them sooner if you have a recipient that you are paying for a "one-time-only" service).

Form W-9

We highly recommend that you prepare yourself in advance for the new requirements. In order to issue a 1099, you need the service providers name, tax identification number, and address. Form W-9 is used to collect this information, and can be found at <http://www.irs.gov/pub/irs-pdf/fw9.pdf?portlet=3>.

New Reporting Requirements – continued

The person who fills out and signs a Form W-9 must sign the form under penalty of perjury.

Failure to collect this information may preclude a landlord from having sufficient information to issue a 1099. There has been some speculation regarding whether or not the IRS will go to the extreme and not allow a deduction for expenses that require a 1099, but were not backed up by the form.



Why Is the IRS Picking on Me?

The main goal of the new provision is to ensure that the service providers (i.e., the gardener) are properly reporting their income. Whether these payments are made in cash, or otherwise, the payments need to be reported. A penalty will apply for each 1099 not filed.

Another goal of the provision is to ensure that the deductions being claimed by the property owners are valid. Since your deductions should be backed up by receipts and records, as well as a 1099, the IRS believes that this will deter false deductions.

Conclusion

Overall, the new provision creates additional reporting requirements for landlords. The IRS believes that the extra tax revenue generated as a result of these requirements will be a fair trade-off. As long as the rental property owner is well-prepared with Forms W-9 and timely issued Forms 1099, the new provision should be easy to follow. If you need help with the compliance requirements, feel free to call us.

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Discontinuance of IRS Paper Coupons (Form 8109)

Earlier this year, the US Treasury determined that it would eliminate the use of federal tax deposit coupons after 2010. This change effects all payments currently made with Form 8109, which include:

- payroll taxes
- corporate income taxes
- back-up withholding
- withholding on retirement plan distributions

After the Form 8109 is eliminated, taxpayers will be required to use the Electronic Federal Tax Payment System (EFTPS), which is already being used by the majority of taxpayers.

Exceptions to EFTPS

Employers that have \$2,500 or less in **quarterly** employment taxes will not be required to use EFTPS after 2010. These employers can pay their liability with their payroll tax returns.

How Do I Begin?

All businesses that used a coupon in the past 18 months but do not have an active enrollment in the EFTPS system are being pre-enrolled. Upon receipt of the pre-enrollment materials, businesses can begin using EFTPS. If you are a new business or did not use a coupon in the past 18 months, additional information regarding the EFTPS system can be found at www.eftps.gov, or by calling EFTPS Customer Service at 1-800-555-4477.