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TOP STORY

Help IRS Minimize the Burden of Expanded 1099-MISC Reporting

BY JERRI LANGER, JD, LL.M.

Starting in 2012, businesses will be required to issue many more Forms 1099-MISC to report payments that previously were not reportable. These include payments to corporations, payments for property, and payments of gross proceeds. These changes result from an amendment to Section 6041 of the Internal Revenue Code that became law in March 2010. The IRS is asking for input, and the American Accounts Payable Association (AAPA) will submit comments collected from you and your colleagues from the [survey link](#) on this page. Please respond to as many or as few questions that you wish to answer.

The expected increase in 1099s from these new rules could be five-fold, according to some IRS sources. Reporting on Form 1099-MISC is based on a threshold of \$600 in total payments to a payee during a year, so a tracking mechanism will need to cover goods, services, and corporation payees. Sometimes it is easier just to report everybody and everything, but remember the potential impact. We will live with these new rules for a long time, and it will be costly to produce the increased volume of 1099s the new rules will require. In addition, B Notices for filing 1099s with incorrect tax identification numbers will increase, as will penalties, which are becoming harder and harder to fight. They will increase exponentially with the reporting volume. Some exceptions will help us to reduce the m el ee, but which ones?



Main Areas of Concern

Payments to corporations (other than nonprofit corporations) will become Form 1099-MISC reportable starting with your first payments of 2012. Payments to corporations that provide legal, medical, or health care services already are reportable and that will continue. However, not all payments reported on Form 1099-MISC will lose the corporate exemption. Payments of royalties to corporations will remain exempt from 1099 reporting under IRC sec. 6050N, which was not amended.

Exceptions to the Rule?

Should there be some exceptions to the new reporting requirements? The IRS has asked whether it makes sense to exempt payments to publicly traded companies or to exempt payments between members of an affiliated group.

Payments for property will require Form 1099-MISC reporting in 2012 too. How should "property" be defined in the tax regulations? Should it include goods, merchandise, inventory, and parts? What else might be included in this definition? The new legislation did not limit the term "property," so it *could* also include intangible property like patents, copyrights, goodwill, leases, and many soft items, as well as commodities like energy, oil and gas through pipelines, coal, grains, fertilizer, chemicals, and even precious metals and other materials you use in your industry.

Obtaining EINs



"AAPA member comments will be collected from this confidential survey. Answer any or all."

[Click here to enter your comments.](#)

IN THE NEWS

IRS Issues Electronic Filing Requirements for Forms 1097, 1098, 1099, 3921, 3922, 5498, 8935, and W-2G

The IRS has published the requirements for filing Forms 1097, 1098, 1099, 3921, 3922, 5498, 8935, and W-2G electronically through the IRS FIRE (Filing Information Returns Electronically) system. [More»](#)

IRS Changes SSN Validation Procedure After Second B Notice

The IRS has issued interim procedures that individual payees can use to obtain validation of social security numbers (SSN) from the Social Security Administration (SSA) to prevent or stop backup withholding following the receipt of a second B Notice from a payer. The interim procedures can be used until additional guidance, including a revision of Rev. Proc. 93-37, is published. [More»](#)

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HOUSING ACCOUNTANT
Pittsburgh, PA

The Housing Accountant manages the monthly accounting processes, including general ledger, accounts payable, accounts receivable, fixed assets, and monthly and yearly reporting. Duties include, but are not limited to, timely preparation and data entry of journal entries, preparing all necessary billings, financial statements, and various schedules for distribution, assisting with preparation of annual HUD budget proposals, handling interactions with external auditors, and performing daily backup of accounting files. Experience with HUD accounting, Windows based accounting software, and computerized general ledger packages preferred. [more»](#)

ACCOUNTS PAYABLE SPECIALIST
Albuquerque, NM
Process and review vendor invoices, employee

Input deadline: September 10, 2010

The AAPA would like to include your comments in our response to the IRS on how to create rules that minimize your burden and prevent duplicate reporting. Please use the [survey link](#) to participate.

Your thoughts need to be returned to us by September 10, 2010. The specific source of all comments to AAPA will be kept confidential.

Obtaining EINs from previously non-reportable corporations as well as vendors from whom you purchase property will necessitate a real operational effort in 2011. Many vendors may even need to be educated on the reason for your TIN solicitation. And remember, backup withholding will attach to every Form 1099-MISC reportable payment you make beginning January 1, 2012, if you do not have the tax identification number (TIN) of the payee, no matter how long you have been doing business with them. Backup withholding is scheduled to revert from 28% to a higher rate at the end of 2010 unless legislation is enacted to retain the current 28% rate.

IRC §3406 does not require TINs to be certified under penalties of perjury for amounts reported under IRC §6041 (on Form 1099-MISC) unless the TIN is being furnished in response to the receipt of the first IRS B-Notice. However, there are inconsistencies in IRS instructions on this matter.

The Third Change

A third change is the requirement to report payments of gross proceeds in addition to payments that we already have been reporting. Currently only payments that are fixed or determinable, annual or periodic income are reportable.

Should the W-9, *Request for Taxpayer Identification Number and Certification*, continue to be optional?

What amendments are needed on the W-9 if it is to be optional? Do we need a clearer, less cumbersome universal form to help us solicit the TINs? Should there even be a form dedicated to this purpose? The IRS is asking for comments on these points.

What should be covered as gross proceeds?

Should the old regulations exempting payments for freight, storage, and telephone charges be retained? Will this new gross proceeds requirement eliminate our ability to use the accountable plan rules to reimburse independent contractors' expenses or require us to report settlement payments even if we do not know whether the payment is taxable to the recipient? What should we do with invoices that include both goods and shipping—report the total or just the goods? We need to look at our processes, identify what may be affected, and come up with flexible solutions to recommend to the IRS.

The following questions may be answered in our call for [comments](#), or you may address the [IRS directly](#).

- Should there be an exception from reporting to publicly traded companies?
- Should an exemption from reporting be granted for payments between affiliated companies, such as for payments related to intercompany transactions within the same consolidated group?
- Are there any other any categories of payees for which payments to them should be exempt from the reporting requirement and why?
- Should there be a new Form 1099 developed for reporting goods, separate from services, to ease an already cumbersome form?
- Should there be special rules for handling the reporting of consolidated invoices that include amounts that are reportable (purchases of goods and services) with amounts that are not reportable (shipping costs)?
- Are there any additional thoughts you may have regarding the new reporting requirements for Form 1099-MISC or related issues that may prove burdensome if not changed or clarified by the January 1, 2012, implementation date for the new rules?
- What do you think should be the appropriate scope of the terms “gross proceeds” and “amounts in consideration for property,” which were added to IRC §6041(a)? How do you think these terms can be interpreted to minimize the reporting burden and avoid duplicative reporting?
- What, if any, changes to Form W-9 and the existing rules for soliciting taxpayer identification numbers (TIN) are needed to minimize the burden for payers to obtain TINs from payees?
 - a. Should W-9s continue to be available to solicit TINs for use on Form 1099-MISC?
 - b. What amendments are needed on the W-9 if it is to be optional?
 - c. Do we need a clearer, less cumbersome universal form to help us solicit the TINs?
 - d. Should there even be a form dedicated to this purpose?
 - e. Are there privacy concerns with respect to obtaining TINs that could be remedied and how?
- It will take time to clean up the TIN records for corporations added to your vendor file as well as other entities that previously were exempt from 1099-MISC reporting because they only sold goods. How should the backup withholding requirements for missing TINs under the expanded new reporting requirements be administered in order to minimize a burden on payers?
 - a. Should there be penalty waiver for a period of time for failing to backup-withhold until records are cleaned up and if so, for how long?
 - b. Consider whether AAPA should ask for a three-year ban on TIN penalties until the errors are

Private Printing of Forms 1042-S, 1096, 1098, 1099, 5498, 8935, and W-2G

In Rev. Proc. 2009-49, the IRS has published updated requirements for preparing acceptable paper substitutes for Forms 1042-S, 1096, 1098, 1099, 5498, 8935, and W-2G. Substitute forms must conform to the official IRS form or the specifications in the revenue procedure to be acceptable. [More»](#)

New Performance Studies Offer Comparisons to Top Performers, Cost Reduction Tips, Much More

Are you interested in learning how top-performing organizations are reducing payroll and accounts payable costs? If so, participate in one of these [2010 Performance Studies](#). [More»](#)

Health Insurance Reform Bills Enacted With New Reporting Requirements

On March 23, President Obama signed into law the Patient Protection and Affordable Care Act, as passed by the Senate. A bill amending the PPACA – the Health Care and Education Reconciliation Act of 2010 – was signed into law just a week later, on March 30. The provisions of the PPACA (as amended by the HCERA) of interest to accounts payable professionals are discussed here. [More»](#)

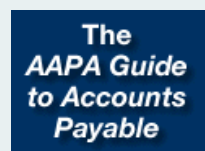
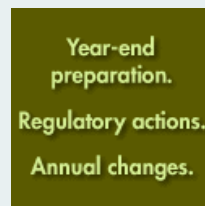
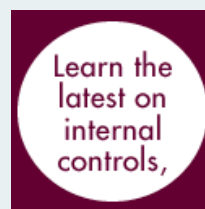
AP Book Guides You to a Successful AP Department

Published in conjunction with the American Accounts Payable Association (AAPA), Aspen Publishers' *AAPA Guide to Accounts Payable* is your one-stop shop for everything you need to know about how to run a successful AP department. [More»](#)

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worked through.

- c. Comments on the IRS TIN-matching program and its expanded use for these purposes are also appropriate.
- List other events that might be seen as duplicative and should be exempt from reporting. Include in this list your thoughts on additional circumstances in which duplicative reporting might otherwise occur if reporting is required under IRC §6041 on Form 1099-MISC and also under another IRC section or on another IRS form. As a good example of what the IRS is asking about, the Treasury Department and the IRS have already issued a proposed regulation that would allow a broad exception from Form 1099-MISC reporting for payment card transactions if otherwise reportable under new IRC §6050W on new Form 1099-K, effective for payments beginning in 2011. This proposed regulation is expected to be finalized by late summer. The IRS has indicated in Notice 2010-51 that business purchases made with credit and other payment cards will be exempt from information reporting on Form 1099-MISC since covered under IRC §6050W. Are there other examples?
 - a. Comment on whether AAPA should consider requesting a specific Form 1099-MISC exception if the payment is already covered under IRC §3402(t) (the requirement for government payers to report and withhold 3% federal tax from payments to providers of goods and services).
 - b. Consider whether there are any other exceptions that should be requested because the payment is already covered on another information return.

Please submit your written comments by September 10, 2010, to be included in the AAPA response. All comments will be kept confidential.

For additional information, or questions on the call for comments, you may contact Jerri Langer, jlanger@cokala.com.

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** Please note that this is a separate opt-in email list from the American Accounts Payable Association.*

ABOUT THE AUTHORS

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Jerri S. Langer, JD, LL.M., is a founding member of COKALA Tax Information Reporting Solutions, LLC. She writes the [AAPA Guide to Accounts Payable](#), published in conjunction with the American Accounts Payable Association.