

## ALERTS AND UPDATES

### Expanded 1099 Reporting for Rental Property Owners

December 1, 2010

The recently enacted [Small Business Jobs Act of 2010](#) ("SBA") includes a wide range of tax breaks and incentives for small businesses, along with various revenue raisers to offset these same incentives. One SBA provision in particular has seemingly gone unnoticed by taxpayers. Beginning in 2011, recipients of rental income from real estate will be subject to the same information-reporting requirements as taxpayers engaged in a trade or business. Under the SBA, owners of real property who receive rental income will be required to issue a Form 1099-MISC to report payments totaling \$600 or more during the course of the year for any expenses related to their rental properties. The provision will apply to payments made after December 31, 2010, and will include payments made to plumbers, carpenters or exterminators in the course of generating rental income.

The following penalties for failure to file a required Form 1099 will be in effect for tax year 2011:

- Penalty for filing a Form 1099 not more than 30 days late increases from **\$15 to \$30**, with a maximum of \$250,000;
- Penalty for filing a Form 1099 more than 30 days late and before August 1 increases from **\$30 to \$60**, with a maximum of \$500,000;
- Penalty for filing a Form 1099 on or after August 1 increases from **\$50 to \$100**, with a maximum of \$1,500,000; and
- Penalty for intentional failure to file increases from **\$100 to \$250**.

These penalties apply *per 1099* that is required to be issued.

The new provision appears to provide some relief for individuals who can demonstrate that the requirement will create an undue hardship or who receive rental income "of not more than a minimal amount." The Internal Revenue Service has yet to provide guidance on what constitutes a hardship or a minimal amount, but has been directed to provide such regulations. If such guidance is not available before January 1, 2011, taxpayers who receive rental income should assume they will have a filing obligation and start keeping records of payments to service providers. Recently, however, U.S. Senate Finance Committee Chairman Max Baucus (D-Mont.) advised that he would introduce legislation to repeal the expanded 1099 reporting requirements, but did not indicate a time frame for when the proposed legislation would be introduced. Likelihood of success is unknown at this time.

While rental property owners will not actually issue the required Form 1099 until tax year 2012, they may want to start keeping adequate records of payments to service providers, beginning on January 1, 2011. Rental property owners should obtain the name, address and taxpayer identification number of the service provider—using Form W-9, Request for Taxpayer Identification Number and Certification—prior to issuing any payments to providers.

### For Further Information

If you would like more information about this topic or your own unique situation, please contact [Michael A. Gillen](#), director of the [Tax Accounting Group](#), or the practitioner with whom you are regularly in contact.

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