



News Alert

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New IRS Reporting Requirements as of January 1, 2011

By Keith Seo

If you own rental real estate, the paperwork you must file with the IRS will increase beginning January 1, 2011. Following passage of the Small Business Jobs Act, new information reporting requirements for taxpayers owning rental properties have been adopted. A landlord must now issue a Form 1099 to any unincorporated service providers to whom it pays \$600 or more in a year. This new law is expected to increase federal tax revenue by \$2.5 billion or more in the next ten years.

The Old Requirements

Until January 1, 2011, only taxpayers whose real estate activities were considered to be a trade or business were required to issue Form 1099s. Most of the 9 million taxpayers owning rental properties are generally treated as engaged in a passive activity, not a trade or business.

The New Requirements of Reporting Rental Property Expense Payments

Beginning January 1, 2011, the Small Business Jobs Act requires all persons receiving rental income from real property to report payments of \$600 or more (combined total for the calendar year) made to service providers for rental property expenses. Service providers include, for example, building managers, gardeners, plumbers, electricians, landscapers, painters, and accountants. Total payments for the year must be reported to the IRS and to the service provider on IRS Form 1099-MISC. This reporting requirement is subject to exceptions:

- If the service provider is a corporation, no Form 1099-MISC is required.
- Also, the following landlords need not report:
 - A landlord renting its principal residence;
 - A landlord whose rental income does not exceed a “minimal amount,” which the IRS has not yet determined;
 - A landlord with a “hardship” case, which the IRS has not yet determined.

We recommend that you ask each of your unincorporated service providers to complete Form W-9 (“Request for Taxpayer Identification Number and Certification”) before you make the next payment. That form is available at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

Form 1099-MISC

A copy of Form 1099-MISC must be provided to each qualifying service provider by January 31 and to the IRS by February 28 each year. An informational copy is available at <http://www.irs.gov/pub/irs-pdf/f1099misc.pdf>. The filing date for services provided in 2011 will be in early 2012. In the meantime, it is possible that Congress may modify or repeal this requirement.

If you use a rental management service, you should determine if your manager will file the forms on your behalf.

If you have any questions about this newsletter, please contact the author listed above or the Riddell Williams attorney with whom you normally consult.

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