

Summary of Form 1099

A provision in the Patient Protection and Affordable Care Act (PPACA), enacted in March of this year, added a new information reporting requirement that may present significant administrative challenges to taxpayers and the IRS. In particular, businesses will have to issue Forms 1099 for goods purchased after 2011, regardless of the corporate form of the vendor. The Office of the Taxpayer Advocate is concerned that the new reporting burden, particularly as it falls on small businesses, may turn out to be disproportionate as compared with any resulting improvement in tax compliance.

Under prior law, information reporting was required for the purchase of services but was not required for the purchase of goods. A person who made payments in the course of a trade or business to a vendor totaling \$600 or more for services or determinable gains in any taxable year was required to furnish an information report to the IRS, with a copy to the vendor. This report, generally a Form 1099-MISC, *Miscellaneous Income*, sets forth the total amount of the payments as well as the name, address, and taxpayer identifying number (TIN) of the vendor.

Prior law generally did not require a person to report payments to purchase goods, presumably because the purchaser could not determine the amount that (less cost of goods sold) would have been income to the vendor. Under a longstanding regulatory regime, moreover, there was an exception for payments to corporations as well as to tax-exempt and government entities.

The PPACA provision would apply to businesses of all sizes, charities and other tax-exempt organizations, and government entities. This mass of persons making payments in the course of a trade or business will soon be required to issue information reports to sellers of goods as well as providers of services. They also will have to report payments to a for-profit corporate service provider. In addition, a business will soon be required to report payments for purchases of goods as well as property of any sort. This new requirement has generated a great deal of concern because of its potential to create administrative burdens for businesses, vendors, and the IRS.

First, vendors will have to furnish, and businesses will have to collect, TINs.

Second, businesses will now have to keep records of all purchases sorted by TIN. Under prior law, a business may have retained sufficient records to substantiate lump-sum expense deductions. Under the new law, the business will have to segregate its records by vendor TIN to determine whether the \$600 annual threshold is met for each vendor.

Third, businesses will have to produce and transmit information reports, including many not previously required. For this purpose, small businesses may have to acquire new software or pay for additional accounting services, incurring additional costs. Moreover, if a business makes qualifying purchases from at least 250 vendors during the calendar year, it will be required to file Forms 1099 electronically, which may require the business to pay a per-report fee charged by an e-file service provider.

The IRS has authority to impose monetary penalties against businesses that fail to file information reports.

The IRS has also announced that filing under § 6041 generally will not be required with respect to purchases made by credit card that are reportable under another provision that is effective in 2011.