Dear Clients,

The IRS has begun focusing heavily on taxpayer compliance with information reporting laws.

Generally, any person, including a corporation, partnership, individual, estate, and trust, who makes reportable transactions during the calendar year must file information returns to report those transactions to the IRS. Persons required to file information returns to the IRS must also furnish statements to the recipients of the income.

To properly report the information required on Form 1099, you need to have the provider's taxpayer identification number (TIN). You can request that the provider fill out and give you a Form W-9, Request for Taxpayer Identification Number and Certification, before work is done or payments are made. If a provider does not supply you with a taxpayer identification number, you are generally required to "backup withhold" 28 percent from any "reportable payments."

Form 1099-MISC is probably the most filed Form 1099 of the series. You must file Form 1099-MISC, Miscellaneous Income, for each person (subject to the exceptions listed below) to whom you paid during the year:

> (1) at least $10 in royalties or broker payments in lieu of dividends or tax-exempt interest;
>
> (2) at least $600 in rents, services (including parts and materials), prizes and awards, other income payments, medical and health care payments, crop insurance proceeds, cash payments for fish (or other aquatic life) purchased from anyone engaged in the trade or business of catching fish, or, generally, the cash paid from a notional principal contract to an individual, partnership, or estate;
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> (3) any fishing boat proceeds; or
>
> (4) gross proceeds of $600 or more paid to an attorney.

In addition, Form 1099-MISC must be used to report direct sales of at least $5,000 of consumer products made to a buyer for resale anywhere other than a permanent retail establishment. Form 1099-MISC must also be filed for each person from whom you may have withheld any federal income tax under the backup withholding rules, regardless of the amount of the payment.

You must report payments on Form 1099-MISC only when the payments are made in the course of your trade or business; personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit. For this purpose, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements.

Congress repealed a law it had enacted in 2010 that required real estate rental income recipients to report on Form 1099-MISC payments of $600 or more to a service provider (such as a plumber, painter, or accountant) in the course of earning rental income. The law was repealed before it ever took effect. Thus, if your rental real estate activities do not rise to the level of a

trade or business, you do not have to report those payments on Form 1099-MISC. Of course, if your rental real estate activity does constitute a trade or business, you must continue to report such payments of $600 or more on Form 1099-MISC.

Some payments are not required to be reported on Form 1099-MISC, although they may be taxable to the recipient. Payments for which you are not required to file a Form 1099-MISC include:

> (1) generally, payments to a corporation;

> (2) payments for merchandise, telegrams, telephone, freight, storage, and similar items;

> (3) payments of rent to real estate agents;

> (4) wages paid to employees (these must be reported on Form W-2, Wage and Tax Statement);

> (5) military differential wage payments made to employees while they are on active duty in the Armed Forces or other uniformed services (these also must be reported on Form W-2);

> (6) business travel allowances paid to employees (may be reportable on Form W-2);

> (7) cost of current life insurance protection (must be reported on Form W-2 or Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.);

> (8) payments to a tax-exempt organization, including tax-exempt trusts (IRAs, HSAs, Archer MSAs, and Coverdell ESAs), the United States, a state, the District of Columbia, a U.S. possession, or a foreign government; and

> (9) certain payment card transactions if a payment card organization has assigned a merchant/payee a Merchant Category Code (MCC) indicating that reporting is not required.

Attorney fee payments made to corporations generally must be reported on Form 1099-MISC.

If you fail to provide Form 1099s and cannot show reasonable cause for the failure, you may be subject to a penalty. The penalty applies if you fail to provide the statement by the deadline, fail to include all information required to be shown on the statement, or include incorrect information on the statement. The penalty is:

> (1) $30 per information return for returns filed correctly within 30 days after the due date (by March 30 if the due date is February 28), with a maximum penalty $250,000 a year ($75,000 for certain small businesses);

(2) $60 per information return for returns filed more than 30 days after the due date but by August 1, with a maximum penalty $500,000 a year ($200,000 for certain small businesses); and

(3) $100 per information return for returns filed after August 1 or not filed at all, with a maximum penalty $1,500,000 a year ($500,000 for small businesses).

Unless you specifically engage me to prepare your 1099s, you are responsible for preparing and filing Forms 1099. If you are audited, the IRS will want documentation of expenses and will look at whether 1099s were filed. Any wage and labor amounts to be deducted on your return will be separately classified and will not be hidden or bundled with other expenses, since there are specific lines on the returns for wages and labor.

There are many other types of information returns that you may be required to file depending on the types of activities in which your business engages in. Please call me at your earliest convenience with any questions.

Sincerely,

Heather Jenkins, CPA

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