



Latest news on Form 1099 and Other Tax Guidelines

1099 Penalties Increase in 2011

For 2010, Form 1099 penalties are –

- up to \$50 for each instance a 1099 Form is not filed with the IRS with a maximum penalty of \$250,000 per calendar year (or \$100,000 for small businesses), and
- up to \$50 for each instance a 1099 Form is not provided to the payee, with a maximum of \$100,000 per calendar year.

In 2011, Form 1099 penalties are scheduled to increase to

- \$100 for each instance a 1099 Form is not filed with the IRS, and
- \$100 each time a 1099 Form is not provided to the payee.

The maximum penalty is \$250,000 for each type of noncompliance.

1099 Rules, in General

1099's must be provided to individuals and business entities for whom at least \$600 is paid for services during a calendar year. For 2010, you do not need to issue 1099's to corporations. However, in 2011, 1099's must be issued to corporations as well. Businesses should always issue the 1099 in the name of the payee business and business federal identification number (as opposed to an individual's name and social security number).

Landlord's Required to Issue 1099's

In 2011, owners of real estate and management companies will be required to file Forms 1099 for any person paid \$600 or more. This includes individual payees. Individual payees must apply with the IRS for a federal identification number. So, for 2011, real estate owners should plan to issue 1099's for payments made to plumbers, electricians, landscapers, etc. in all instances in which you paid a person or business at least \$600. Each payee should provide you with a completed Form W-9 before the first payment is issued to them, to ensure you have their correct address and federal identification number. There will be several exceptions to these 1099 filing requirements, including one for individuals renting their principal residence on a temporary basis.

Liquidating Dividend for Corporations

If your corporation was shut down in 2010, look into filing a liquidating dividend to report distributions you received during a partial or complete liquidation of your business. These distributions are, at least in part, one form of a return of capital. They may be paid in one payment, or multiple installments.

Standard Mileage Rates for 2011

Beginning on January 1, 2011, the standard mileage rates for the use of cars, vans, pickups or panel trucks will be:

- 51 cents per mile for business miles driven
- 19 cents per mile for medical or moving purposes
- 14 cents per mile driven in service of charitable organizations

Be sure to keep a detailed auto log to document your business miles and total miles driven. If you want to have the option to choose the greater of either actual expenses or the standard mileage rate each year, you must use the standard mileage rate the first year the car is used in your business. After the first year, you then may choose to take the larger of the actual expenses or the standard mileage rate.

Personal Use of Auto

You may find your tax preparer asking more questions regarding personal use of a business automobile. Tax preparers are now required to specifically ask for the amount of personal auto use, and document that the taxpayer provided updated information every year. Tax preparers are also required to find out if the personal use was added to the employee's Form W-2 (Wage statement). Questions specific to personal use of business automobiles are asked on Schedule C (sole proprietor business) and 4562 (depreciation) forms that must be answered. Tax preparers who do not document this information properly are subject to preparer penalties.

S Corporation Salaries

The IRS has become increasingly interested in salaries paid to S Corporation shareholders. You need to ensure that the compensation paid these shareholders is reasonable. No firm guidance has been released, but the IRS is currently reviewing corporations where the salaries paid do not hit the FICA maximum, but the entity reported sizeable profits. The prudent rule of thumb is you should pay the shareholders what you would have to pay a third party for the same services. The IRS can force businesses who underpay their shareholders to pay back payroll taxes on the additional salary they deem, plus payroll tax penalties for not depositing those payroll taxes in a timely manner.

Texas Unclaimed Property

The state of Texas, like all other states is searching for revenue. Checks that businesses write that are never cashed should periodically be turned over to the State as unclaimed property. If this is not done, your business may be hit with tax, penalties and interest based on their examination. More information may be obtained on the Texas State Comptroller's website.