

New Information Reporting Requirements – Some Repealed and Some Remain

To Our Clients and Friends:

During April 2011, Congress passed and President Obama signed legislation to repeal expanded information reporting requirements. The Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 (P.L. 112-9) repealed expanded business information reporting requirements previously scheduled to take effect for payments made after December 31, 2011 and also repealed rental property expense reporting which was effective for payments made after December 31, 2010.

The two (now repealed) information reporting requirements were enacted by Congress in 2010. Both were intended to boost tax revenues. Research has shown that taxpayers are more likely to report their tax liabilities when they know that the same information has been provided to the IRS by a third party.

The Patient Protection and Affordable Care Act (PPACA) generally required all businesses, charities and state and local governments to file an information return (Form 1099) when they made annual purchases aggregating \$600 or more to a single vendor, other than a tax-exempt vendor, for payments made after December 31, 2011. The PPACA also repealed the longstanding reporting exception for payments to a corporation. The IRS was planning to issue regulations on the expanded business information reporting requirements but repeal of them makes the regulations unnecessary.

The Small Business Jobs Act of 2010 required information reporting by landlords on certain rental property expense payments of \$600 or more in conjunction with their rental properties made after December 31, 2010. The types of expenses contemplated by the 2010 Small Business Jobs Act were, for example, payments to craftspersons, such as electricians and roofers. Payments for professional services, such as to accountants, also would have been covered by the 2010 Small Business Act. Some landlords, however, were exempt from reporting. They included, but were not limited to, landlords who received only a nominal amount of rental income. The IRS also was planning to issue regulations but repeal of the rental property expense reporting requirement makes the regulations unnecessary.

By early 2011, momentum had built in Congress for complete repeal of the two reporting requirements. On March 3, 2011, the House approved the 1099 Comprehensive Taxpayer Protection Act. The Senate approved the bill on April 5, 2011 and President Obama signed the bill into law on April 14, 2011. Passage of the bill means that the expanded information reporting requirements under the PPACA are repealed as if they had never been enacted. Likewise, rental property expense reporting under the 2010 Small Business Jobs Act is repealed as if it had never been enacted.

The 1099 Comprehensive Taxpayer Protection Act did not repeal some other new information reporting requirements. In particular, taxpayers need to take notice of three new information reporting requirements that are now in effect after having withstood campaigns to have them repealed since their enactment:

1. ***Health insurance benefits.*** The Patient Protection and Affordable Care Act of 2010, requires employers to report to their employees on Form W-2 the cost of employer-provided health insurance. This

reporting requirement is optional for all employers in 2011, optional for small-employers only for 2012 and mandatory for all employers starting in 2013.

2. **Broker reporting.** The Emergency Economic Stabilization Act of 2008 expands Form 1099-B reporting to include the cost or other basis of stock and mutual fund shares sold or exchanged during the year. This reporting starts in 2011 for most stock acquisitions and in 2012 for most mutual fund transactions. The expanded form will also disclose whether any gain or loss is long-term or short-term.
3. **Credit Card reporting.** The Housing Tax Assistance Act of 2008 requires the reporting of various payment card transactions starting in 2011. Payment settlement entities (i.e., banks and other processors of merchant payment card transactions) are required to report payments made to merchants for goods and services in settlement of credit card and third-party payment network transactions.

Congress and the White House are currently negotiating a deficit reduction plan and a fiscal year (2012) federal budget. The deficit reduction plan and budget are expected to include a mix of revenue raisers and spending cuts. It is unlikely Congress will revive the two information reporting requirements repealed in April 2011 but lawmakers might impose other information reporting requirements. Speaking in Washington, D.C. in April 2011, IRS Commissioner Douglas Shulman endorsed making more use of information returns to increase taxpayer compliance. Shulman's remarks may resonate with many members of Congress who are looking for ways to reduce the nation's budget deficit.

If you have any questions about the 1099 Comprehensive Taxpayer Protection Act or information reporting in general, please contact your Fust Charles Chambers LLP client service partner or principal.

Sincerely,

The Partners



5784 Widewaters Parkway, Syracuse, New York 13214 • 315-446-3600 • fax 315-446-3899 •
www.fcc-cpa.com