



November 21, 2010

Tax Reporting Requirements for Landlords

With the introduction of the Small Business Jobs Act 2010, landlords will have to file information returns usually in the form of an IRS Form 1099 – MISC when they pay any contractor more than \$600 in a tax year starting from January 1, 2011. This applies to plumbers, landscapers, accountants or any service provider who are not incorporated with the exception of lawyers. This means payments to corporations, other than legal corporations and payments for goods such as appliances and furniture are exempt. A corresponding 1099 must also be sent to the service provider.

While the Small Business Jobs Act does provide additional tax breaks and credit, there is a section of the bill called 'Reducing the Tax Gap' in which the requirement of reporting expenses exceeding \$600 to service providers is stated. Before this bill, only landlords actively involved in running their business in daily activities need file 1099s but now even investor owners who have handed over the running of their businesses to managers, have to file 1099s.

When the IRS receives the 1099 from the landlord, it will expect some tax revenue from the service provider. These contractors will face fines if they fail to pay their taxes. The Senate Finance Committee said that this bill will result in additional revenue of \$2.5 billion in taxes over the next 10 years.

This reporting requirement will only be applicable to landlords whose rental income exceeds a certain threshold. This limit has yet to be determined in regulations by the Secretary of the Treasury. The bill also includes some exclusions.

If you are a temporary landlord who rents out your property only for a temporary period because of certain circumstances (like going overseas for a few months), you are excluded from the requirements of the bill. Also if you are a member of the military or 'intelligence community' or anyone who genuinely cannot comply with the bill due to hardship it may impose are exempted. The definition of 'hardship' will be clearly made in the regulations by the Secretary of the Treasury.

As a landlord, you also have to furnish the Social Security number (or Employer Identification number for businesses) of the contractor you engage. Contractors who are not permitted to work in the US will not have any Social Security numbers, or they may provide fake ones. If the IRS discovers a fake SSN in your 1099, it will pursue you. Typically, the IRS will demand that you initiate withholding tax for that worker within 30 days of being informed by the IRS starting from the time you engaged the contractor. In other words, the IRS will assume you as the employer of the contractor.

These regulations can be found in the IRS Publication 1281.