

HEALTHCARE TAX TIP

December 5 2012

BEST PRACTICES FOR FORM 1099-MISC REPORTING

With year-end approaching, this tip addresses Form 1099-MISC, Miscellaneous Income, and the applicable tax reporting requirements. In recent years the Internal Revenue Service ("IRS") has heightened its scrutiny of employment tax issues, including the area of Form 1099-MISC reporting; particularly in the healthcare industry.

When the IRS released a revised version of the Federal Form 990, Return of Organization Exempt from Income Tax, in 2008, it required tax-exempt entities to make new disclosures about their Form 1099-MISC reporting. For example, Form 990, Part V, Question 1a asks for the number of Forms 1099 issued during the year based on the organization's Form 1096, Annual Summary and Transmittal of U.S. Information Returns. There is also a subsequent question asking if the organization complied with backup withholding rules for reportable payments to vendors. Lastly, Form 990, Part VII, Section B requires tax-exempt organizations to disclose the name, address, description of services and amount paid to its five highest paid independent contractors receiving greater than \$100,000 in compensation for services, whether professional or other services, from the organization, and regardless of whether or not a Form 1099-MISC was issued.

FAILURE TO FILE CORRECT INFORMATION RETURNS BY THE DUE DATE

Failure to file a correct information return by the due date and lack of reasonable cause may cause an organization to be subject to a penalty. The penalty applies if an organization fails to file timely, fails to include all information required to be shown on a return, or if incorrect information is included on the tax reporting document. Certain organizations are required to electronically file their tax reporting documents with the IRS. Filing information returns via paper as opposed to electronically will also cause an organization to be subject to a penalty. A penalty could also be assessed if an organization reports an incorrect or fails to report a taxpayer identification number. Penalties range from \$30 to \$100 per information return and the amount of the penalty varies based upon the date that any discrepancies noted in the information returns are corrected. Back-up withholding taxes can also be assessed by the IRS if an organization does not maintain fully completed Forms W-9 for its payees.

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Questions or comments?

E-mail us at healthcare@withum.com

To ensure compliance with U.S. Treasury rules, unless expressly stated otherwise, any U.S. tax advice contained in this communication is not intended or written to be used, and cannot be used, by the recipient for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code.

BEST PRACTICES FOR FORM 1099-MISC REPORTING (CONTINUED)

BEST PRACTICES

The IRS typically performs a detailed review of an organization's accounts payable department when it conducts an audit examination. The IRS has found that this area typically results in taxes and penalties being owed by a taxpayer. This is particularly true in the healthcare industry due to exceptions to the general rules and regulations of Forms 1099-MISC tax reporting that are specific to this industry. In order to avoid any proposed IRS back-up withholding tax, penalties and subsequent liabilities, it is best to file all necessary Forms 1099-MISC carefully and accurately on an annual basis. To that end WS+B recommends the following best practices:

- Require all accounts payable payees to furnish a fully completed Form W-9, Request for Taxpayer Identification Number and Certification, prior to payment. This will eliminate the imposition by the IRS of back-up withholding tax on the organization if the organization fails to furnish a particular payee a Form 1099-MISC. Note generally you only need to obtain a fully completed Form W-9 once from each payee.
- Use the IRS' Taxpayer Identification Number ("TIN") Matching Program to ensure that the provided TIN on the Form W-9 is correct. If a discrepancy is found, notify the vendor immediately to resolve the issue prior to the filing of the year end Forms 1099-MISC.
- Annually at year end the organization should review its "non-1099 required vendors" to determine whether or not any of these payees should be reclassified to Form 1099-MISC required vendors.
- Annually, at year end the organization should review both payroll and accounts payable to determine if an individual is being issued both a Form W-2 and Form 1099-MISC.
- Maintain an internal written Form 1099-MISC policy which includes the IRS rules and regulations.
- Accounts payable personnel should be required to attend one Form 1099-MISC tax reporting continuing education seminar annually.
- Be conservative when determining whether a Form 1099-MISC should be issued to a particular payee. There are no penalties and back-up withholding taxes associated with preparing, issuing and filing Forms 1099-MISC so "when in doubt, send one out".
- Consider a voluntary compliance filing with the IRS if the organization discovers substantial non-compliance with the Form W-9 and Form 1099-MISC rules and regulations.

A copy of the 2012 Form 1099 instructions can be accessed at the healthcare services section of our Firm's website.

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BEST PRACTICES FOR FORM 1099-MISC REPORTING (CONTINUED)

FORM 1099 REPORTING RULES

When reviewing the list of payees for purposes of Form 1099-MISC an organization should remember the following:

- Generally, prepare and issue a Form 1099-MISC for payments of \$600 or more to vendors for rent, services (including parts and materials), prizes and awards, other income payments, medical and healthcare payments, and attorney fees paid in the course of the trade or business.
- A limited liability company could be taxed as a corporation, partnership or disregarded entity; carefully review all completed Forms W-9 for limited liability companies to determine when a Form 1099-MISC may be required based upon the tax status of the entity and what the payment represents.
- Generally, payments to corporations, payments for merchandise, payments of rent to real estate agents, wages to employees (report on Form W-2), business travel allowances, costs of life insurance protection, and payments to a tax-exempt organization do not require the issuance of a Form 1099-MISC.
- Payments to attorneys and law firms and medical healthcare payments always require the issuance of a Form 1099-MISC even if the payee is a corporation.
- Generally, an individual should never receive both a Form W-2 and Form 1099-MISC from the same organization.

For more information on the topics discussed or services we can provide, please contact:

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