

Newsletter

MAY 2011

New law repeals expanded 1099 reporting rules

On April 14, 2011, President Obama signed legislation – the *Comprehensive 1099 Taxpayer Protection and Replacement of Exchange Subsidy Overpayments Act of 2011* – repealing expanded reporting rules for businesses and landlords that had been created by laws passed in 2010.

Business reporting. The Form 1099 reporting rules were changed by the 2010 health care legislation. Under the *Patient Protection and Affordable Care Act of 2010*, every business, charitable organization, and governmental unit was required to file a Form 1099 for payments to any vendor or supplier of goods or services (other than a tax-exempt organization) totaling \$600 or more for the year. Both the recipient and the IRS had to receive a copy of the Form 1099. These rules were scheduled to take effect for payments made after December 31, 2011.

Before the passage of the health care law, payments to corporations were generally exempt from the Form 1099 reporting requirements. The 1099 law just signed by President Obama completely repeals the expansion of business reporting requirements, and the reporting rules return to what they were before health care legislation.

Rental property reporting. Similarly, new Form 1099 reporting requirements were recently imposed on landlords. Under the *Small Business Jobs Act of 2010*, owners of rental properties were generally required to file a Form 1099 for rental-related payments to any provider for services totaling \$600 or more for the year. These reporting rules were to apply to recipients who provided professional services, such as accountants, as well as workers like plumbers and electricians. They were to be effective for payments made after December 31, 2010.

The new law repeals these expanded Form 1099 reporting rules for landlords. As with the repeal for business reporting, it's like the requirements never existed.

Repeal of the expanded business and rental property expense reporting rules will eliminate a flood of paperwork for most small business and rental property owners.

Estate taxes might not affect you, but you still need a plan

There's good news if you're concerned about estate taxes. For the next two years (2011 and 2012), the value of your estate that's excluded from tax is set at \$5 million. And the top rate on taxable estates is 35%.

The \$5 million exemption is per person, thus a couple's exemption is \$10 million. Also notable in the law is the new portability of unused exemptions. Under prior law, couples frequently performed complex estate planning to take full advantage of the then \$7 million exemption for couples. Now the law allows a deceased spouse's estate to transfer any unused exemption to the surviving spouse without all the complex planning.

So what should a taxpayer do to take advantage of the current rules? First, estimate the size of your estate and if you may be subject to taxes, consult us and your attorney for planning options. For example, you might consider taking advantage of the favorable gifting and generation skipping tax exemptions by making tax-free gifts to planned beneficiaries now. It's important to realize that not only will planning for these events minimize potential estate tax, but also you will be preserving assets for your family.

If your estate is under the tax threshold, don't assume that you can just ignore estate planning. If you have a plan in place, you should review and update it at least annually. First, your financial situation might have changed. Or there could be changes among your heirs or beneficiaries. Think of all the births, marriages, deaths, and divorces in your extended family during the last year.

If you don't have an estate plan, establish one as soon as possible. A plan is not just about avoiding estate taxes. At a minimum you need the following:

- A will or trust to specify who will inherit your assets and to appoint a guardian for any minor children.
- A medical directive or "living will."
- Health care and financial powers of attorney.
- Updated beneficiary designations for insurance and pension assets.
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For help calculating the value of your estate, or to learn more about how estate taxes might affect you, please contact our office.

Consider the time value of money in making business decisions

Suppose you're selling your business, and it's worth \$400,000. You're offered \$210,000 down and lump sums of \$100,000 at the end of year one and year two. Should you take the offer?

Most people know that \$1,000 now is worth more than \$1,000 a year from now. Here's why:

- 1. Inflation:** In a year, a dollar will buy less than it would today.
- 2. Risk:** Over time, the risk increases that some of the money owed you will not be paid.
- 3. Opportunity loss:** Funds on hand could be invested and earning more money.

Present value analysis attempts to quantify these variables. It discounts the value of future funds by estimating inflation rates, risks of loss, and rates of return from alternative investments.

Assume you could earn 2% by investing in a \$100,000 CD. Disregarding compounding, in a year your investment would be worth \$102,000. Conversely, if you postponed receipt of \$100,000 for a year and inflation eroded the principal by 3%, you'd receive the equivalent of \$97,000 in today's dollars. (Note that with 3% erosion, even the \$102,000 CD proceeds would be worth only \$98,940 in today's dollars.)

In the opening example, your proposed "investment" (a two-year \$200,000 note receivable) would be far riskier than a CD. To compensate, you might decide not to accept anything less than an 8% return. A present value table indicates that at 8%, the discount factors for one and two years are .926 and .857, respectively. \$100,000 times .926 is \$92,600; \$100,000 times .857 is \$85,700.

Thus, in today's dollars, the buyer is offering \$388,300 (\$210,000 down payment plus \$92,600 plus \$85,700). Since your business is worth \$400,000, you would be selling for \$11,700 less than full value.

A similar analysis can be applied to any business transaction involving future payments. For help with the calculations or assistance with any of your business needs, call us for an appointment.